TABLE OF CONTENTS

• Acknowledgement
• Summary
• Ogoniland, a perfect example
• Communities, Civil Society Speak on Divestments
• Conclusions & Recommendations
Acknowledgement

We wish to thank community representatives, civil society partners, women leaders and other category of marginalized people who participated in meetings organised by the Environmental Rights Action/ Friends of the Earth Nigeria (ERA/FoEN) in Bayelsa, Edo and Rivers State where the information and recommendations in this document were obtained.

We wish to state here that the views expressed in this policy brief are ours and not necessarily the views of our partners and funders.

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Summary

Fossil fuels divestment is a global campaign spearheaded by civil society groups advocating for pulling out of public finance, loans, and subsidies from extractive industries, particularly oil and gas. Campaigners advocate divestment owing to the contribution of oil and gas corporations to environmental pollution and climate change and its impacts. The climate justice community believes that by reducing extraction by about 80% such monies running into billions of dollars will be redirected to alternatives, especially renewable sources of energy such as solar, wind and community energy development.

Norway leads the way in fossil fuels divestment strategies. In 2015 that country's parliament formally endorsed the selling of coal investments from its $900bn sovereign wealth fund, the world's largest. That exercise has turned out to be the biggest fossil fuel divestment and said to have affected about 122 companies across the globe.

As clear as its objective, the term divestment in Africa has been distorted by the same fossil fuels industry and mis-presented to mean sale of toxic assets and oil facilities in environmental hotspots. In the Nigerian context divestment has come to be associated with multinationals' shift from onshore holdings to the largely unregulated offshore extractive belt. This abuse of the divestment concept has enabled multinational oil companies to extract with impunity and sell their toxic assets to Domestic Oil Companies (DOCs) that are usually unwilling to take responsibility for the environmental and other impacts left by the former.

Distortion is not the only tactic that the fossil fuels industry uses to evade responsibility; the divestment process itself is secretive and usually excludes members of host communities where industry facilities are.
Signing of agreements and other critical details take place behind closed doors between the state and the oil multinationals. This entrenched practice has sent clear signals to oil-bearing communities that they do not matter in the entire gamut of oil operations and their long-standing call for transparency in the oil and gas business is not a consideration by both parties.

In Nigeria, Shell is the first multinational oil company to experiment divestment when it divested some of its equity from some oil blocs in the Niger Delta in 2010. In May 2021, the company’s Chief executive Ben van Beurden, speaking at the company's shareholders meeting in The Hague blamed the winding down of its operations in the Niger Delta to the risk profile of the region. Beurden's famous line on the subject was: “We cannot solve community problems in the Niger Delta — that's for the Nigerian government perhaps to solve”. He added that, “We can do our best, but at some point, in time, we also have to conclude that this is an exposure that doesn't fit with our risk appetite anymore.”

This deceptive rhetoric has been copied by Exxon Mobil and other IOCs operating Joint Venture partnership with Nigerian National Petroleum Corporation (NNPC).

It is a general knowledge that divestment is part of the IOCs strategy to evade responsibility and refocus on more profitable areas of investment within the industry especially the deep offshore which is highly unregulated and holds prospects that the Nigerian government does not have capacity to harness. For the IOCs there is a strong belief that going offshore will enable them to avoid social resistance including litigation and various other forms of dissent by oil-bearing communities of the Niger Delta. It will also enable them to dodge the implementation of Nigeria's Local Content Law, particularly the involvement of local entrepreneurs in
the oil and gas business.

The January 29, 2021, judgment of the Dutch Court of Appeal that Shell must pay damages to three out of the four Niger Delta farmers from two communities and two States of the Niger Delta for oil spills that caused widespread pollution of their land spurred fears that with such a precedent IOCs will incur heavy costs in remediation of polluted sites and huge financial compensation to communities. The following months witnessed a flurry of divestments.

In February 2022 ExxonMobil reached an agreement to sell its equity interest in Mobil Producing Nigeria Unlimited to Seplat Energy, a Nigerian independent oil and gas company, through its wholly owned subsidiary Seplat Energy Offshore Limited. As anticipated, the company added a caveat, that it will still maintain a significant deep-water presence in Nigeria, including interests in the Erha, Usan and Bonga developments via Esso Exploration and Production Nigeria Limited and Esso Exploration and Production Nigeria (Deepwater) Limited.

The Nigerian National Petroleum Company (NNPC), which has been in a joint venture with Mobil blocked the corporation's attempt to offload its assets to Seplat, an indigenous oil firm, arguing that it has the right of first refusal based on the terms of their contract.

The NNPC subsequently obtained a court order stalling the divestment. But the lack of due process and transparency in the deal came to a head in August 2022 when President Muhammadu Buhari gave the nod for the divestment to go on only for the regulatory agency – Nigerian Upstream Petroleum Regulatory Commission (NUPRC) to counter the president's directive. On August 10, 2022, the
president reversed his earlier directive vii. The deal is currently on pause mode.

Chevron also offered a 40 per cent stake in the shallow water OML 86 and OML 88, which produce around 6,200 barrels of oil equivalent per day viii.

As can be deduced in most of the identified divestments, they involve agreements reached to avoid liability for pollution of local communities in the Niger Delta; involve leaving behind liabilities for new buyers; and exclude communities from the divestment processes.
Ogoniland, a perfect example

When Shell discovered oil in Ogoniland, present day Rivers State in 1958 it found six oil fields around populated areas. For the billions of dollars that Shell made from oil extraction in Ogoniland, what it left behind in the community when it was forced out in 1993 is oil contaminated water, unproductive farmlands, destroyed aquatic life and wildlife. Between 1976 and 1991 about 2,976 oil spills was said to have occurred in Ogoni which accounted for about 40% of the total oil spills traceable to Shell's operations globally.

The people of Ogoniland have grappled with oil pollution, destruction of their environment and human rights violations for more than six decades. In 2011, an assessment report by the UN Environment Programme (UNEP) acknowledged the devastating footprint of the oil industry and made concrete recommendations for clean-up and immediate support for the affected communities.

The dilemma of the Ogoni people only gained global prominence in January 1993 when about 250,000 Ogoni natives marched against Shell in protests led by the Movement for the Survival of the Ogoni People (MOSOP), founded by the playwright and environment rights activist, Ken Saro-Wiwa. This struggle forced the Nigerian government and Shell to leave the Ogoni oil in the soil.

Though, Saro Wiwa was extra-judicially murdered in 1995, the Ogoni cause for which he fought and died for continued to grow. In 2006, the Nigerian government sought the services of the United Nations Environment Program (UNEP) to carry out an independent scientific assessment of the polluted sites. The UNEP investigation involved the examination of 200 locations, 122 kilometers of pipeline right of way, and more than 5,000 medical records. The UN agency also held direct discussion with more than 23,000 people from Ogoniland. Soil and groundwater contamination...
investigations were conducted at 69 sites where about 4,000 samples were analyzed.

On August 4, 2011, the report was presented to the Nigerian government showing that over 200 locations in Ogoniland were impacted by five decades of oil production. The impacts of oil spills, gas flaring, and other wastes made the assessed sites no longer worthwhile for agriculture. The UNEP estimated that it could take up to 30 years to restore Ogoniland to its former nature.

Ironically, Shell never disputed the huge pollution, but instead, blamed many of the leaks on sabotage. Leaning on this argument, it has done everything to evade full responsibility. The absence of a sense of justice for the environmental crimes of Shell forced a host of communities in the Niger Delta to institute legal actions against the company in Nigeria, the United Kingdom and at its headquarters in The Hague. After a 13-year legal battle, a Dutch Court of Appeal on January 29th, 2021, ordered Shell to compensate Nigerian farmers for spills that polluted their farmlands in the Niger Delta.

The Dutch court charged Shell to compensate three out of four farmers who instituted the case in 2008. Two of the farmers died before justice was secured in 2021 while the remaining two died while waiting for the fruits of their victory!

Ironically, the Ogoni scenario is a mirror of what most communities that host oil facilities contend with as the deluge of divestments occurring in the Niger Delta region becomes another keg of gunpower waiting to explode.
Communities, Civil Society Speak on Divestments

Concerned about the unease and confusion in Niger Delta communities over the divestment issue, between April 13, 2022, and July 22, 2022, the Environmental Rights Action/Friends of the Earth Nigeria (ERA/FoEN) organised several consultations and dialogues with host communities, NGOs/CSOs and the media to gauge their perceptions and recommendations on the way forward.

The community consultation on IOC divestment organised on Saturday April 23, 2022, in Bayelsa, had in attendance representatives of various communities, including traditional rulers, leaders of thought, women, the youth, the academia, government officials and the media, amongst others.

At the end of the robust engagement participants observed that the global environmental justice community campaign for divestment of public finance, loans and subsidies from extractive industries has been replaced, abused, and misrepresented by all divesting IOCs in the Niger Delta and the Nigerian government to the detriment of local communities. They contended that the oil and gas industry in Nigeria has only brought untold hardship on local communities through oil spills, gas flaring and other pollutions that have ruined lives, land, and livelihoods of indigenous people.

They alleged that in the divestment processes the IOCs deliberately ignore Memorandum of Understandings (MOUs) and Global Memorandum of Understandings (GMOUs) agreed with oil-bearing communities. They also alerted that divesting IOCs abandon toxic assets and complex problematic relationships with communities that the Domestic Oil Companies (DOCs) have inherited and continue to perpetrate.
Most disturbing to them is their belief that there is a complicit silence by the Nigerian state and the regulatory agencies as IOCs dictate the terms of divestments.

ERA/FoEN organised similar engagements in Port Harcourt, Rivers State on April 25, 2022, and in Benin City on May 27, 2022, that also had in attendance civil society groups, community activists and the media to interrogate the divestment issue.

Community dialogue on motives behind IOC Divestments in the Niger Delta held on April 23, 2022, in Yenagoa, Bayelsa State

Screen shot of the communiqué issued at the end of the community dialogue in Yenagoa is below.

Link to the full report can be found here: [http://erafoen.org/index.php/2022/04/24/unmaking-motives-behind-international-oil-companies-divestments-in-nigerias-niger-delta/]
COMMUNIQUE ISSUED AT THE END OF A COMMUNITY DIALOGUE ON UNMAKING MOTIVES BEHIND INTERNATIONAL OIL COMPANIES DIVESTMENTS IN NIGERIA'S NIGER DELTA

Concerned about the unease and confusion in Niger Delta communities over their exclusion in the ongoing divestment processes of International Oil Companies (IOCs) in the region, the Environmental Rights Action/Friends of the Earth Nigeria (ERA/FoEN) organised a one-day dialogue with host communities at the Domaris Hotel in Yenagoa, the Bayelsa State capital.

The consultation on Saturday April 23, 2022, had in attendance representatives of various communities, including traditional rulers, leaders of thought, women, the youth, the academia, government officials and the media, amongst others. Traditional rulers present were His Royal Highnesses, King W.D Amakiri and King Francis T. Dodo of Oruma and Ikebiri Kingdoms respectively.

At the consultation ERA/FoEN Executive Director, Chima Williams briefed participants about the ERA/FoEN engagements on unmasking IOC divestments and the fact that divestment has become a major issue as oil majors flee their toxic onshore facilities and go offshore where they evade monitoring.

Williams said that the exclusion of communities and community concerns are crucial to the discussion on how to address the underlying issues
hence the decision to hold the dialogue in Bayelsa, adjudged the most oil impacted state in Nigeria.

Academics in attendance who also spoke to the issues are Professor Sofiri Joab-Peterside from Department of Sociology, University of Port Harcourt, and the Vice Chancellor of Federal University of Otuoke, Bayelsa State, Professor Teddy Adias whose intervention weighed heavily on impacts of Shell's activities in Otuagbagi in Oloibiri Kingdom.

**At the end of the robust engagement participants observed the following:**

1. The global environmental justice community campaign for divestment of public finance, loans and subsidies from extractive industries has been replaced, abused, and misrepresented by all divesting IOCs in the Niger Delta and the Nigerian government to the detriment of local communities
2. The oil and gas industry in Nigeria has only brought untold hardship on local communities through oil spills, gas flaring and other pollutions that have ruined lives, land, and livelihoods of indigenous people
3. In the divestment processes the IOCs deliberately ignore Memorandum of Understandings (MOUs) and Global Memorandum of Understandings (GMOUs) agreed with oil-bearing communities
4. Divesting IOCs abandon toxic assets and complex problematic relationships with communities that the Domestic Oil Companies (DOCs) have inherited and continue to perpetrate.
5. There is a complicit silence by the Nigerian state and the regulatory agencies as IOCs dictate the terms of divestments
6. In decision-making on the divestment processes and other matters
relevant to local communities in the Niger Delta the IOCs and the Nigerian government have excluded the communities

7. The divestment processes pose grave threats to ongoing court cases instituted by local communities against the divesting companies

8. The divestment processes have largely weakened local struggles for environmental justice. It has equally divided communities

9. Domestic oil companies have inherited and continue the tradition of impunity and lack of accountability to local communities.

10. Though all community people of all classes have suffered exclusion in the divestment processes, women and children suffer profoundly because the ongoing processes further aggravate their non-inclusion at all levels of engagement

11. Media spotlight on oil and gas matters has largely ignored divestment and other matters crucial to the communities of the Niger Delta

It was subsequently agreed that

1. There is need for a better understanding and deepened community engagement on the global environment justice community definition of divestments vis-à-vis the model of the IOCs in the Niger Delta

2. The need for communities to embrace of the Leave the Oil in the Soil campaign

3. Need to hold the oil and gas companies in Nigeria liable for nearly six decades of ecocide in the Niger Delta as precursor to remedial actions and compensation. The court cases of Niger Delta communities in The Hague and UK court are models of litigation successes

4. Federal Government compel divesting IOCs to honor MOUs, GMOUs and other agreements entered with communities
5. The IOCs decommission their toxic assets and carry out remedial actions monitored by independent bodies and civil society in the communities

6. Integration of communities and making them the central focus of ongoing divestment processes

7. Strengthening of communities and civil society struggles and voices for environmental justice through capacity building and awareness creation trainings. This should include peaceful engagement, sharing experiences and learnings to engage the process

8. Need for demilitarization of Niger Delta communities that are legitimately agitating for a safe environment for their development

9. Need for prioritization of women and women concerns in ongoing divestment discussions and decision-making

10. Need for in-depth investigation and reportage of IOC Divestments and other underreported issues of the oil and gas industry in Nigeria

SIGNATORIES

1. The Environmental Rights Action/Friends of the Earth Nigeria
2. Ikarama Community
3. Ikebiri Community
4. Otuagbagi Community
5. Sangana Community
6. Nembe Community
7. Egebekiri Community, Okoroma
8. Otuogidi Community
Conclusions & Recommendations

From the consultations and community level engagements ERA/FoEN organized on the subject matter, the following stand out as recommendations from activists and communities in the Niger Delta Halt to the ongoing divestment processes until environmental justice is secured for communities impacted by IOC operations:

What Local Communities Demand

• Adherence of the Nigerian government and IOCs to the global interpretation of divestment in the fossil fuels industry

• Equity participation in the divestment of oil and gas assets.

• Divesting IOCs should fulfil all their outstanding MOUs and Global Memorandum of Understanding (GMOU) obligations to community people and their environment before handing over assets to DOCs.

• A more transparent, open, and inclusive divestment process

What Government Should Do

• Set up environmental remediation bond payable by both divesting and investing entities

• Involve host community representatives, civil society representatives, relevant Government Ministries, Departments and Agencies representatives including representatives of both divesting and investing entities in a multi-stakeholders review team on best practices in the divestment process

• Make the process of divesting IOC assets open and transparent.

• Respond to popular impression that the divestment option is simply a
strategy by the IOCs to escape from their environmental liabilities.

- Addresses the issue of local community exclusion in the ownership structure of assets through divestment.

- Compel divesting IOCs to fulfil all their outstanding MOUs and GMOU obligations to community people and their environment before handing over assets to DOCs

- Encourage renewable energy dis-centralization and promote indigenous energy companies to provide renewable energy in Nigeria.

- Deal with the political nature of allocation of oil blocks which has been a key grievance issue in the call for resource control by many groups in the Niger Delta.

**What IOCs Must Do**

- Stop oil pollution and clean up spills with more commitment across communities.

- Fulfil all outstanding MOUs and GMOU obligations to community people and their environment before handing over assets to DOCs

- Stop the deliberate divide and rule tactics that bring crisis in local communities

- Stop the misleading and misrepresentation of divestments in the oil and gas industry
About the Environmental Rights Action/Friends of the Earth Nigeria

The Environmental Rights Action (ERA) is a Nigerian advocacy non-governmental organization founded on January 11, 1993, but legally registered under the entity Environmental Rights Development Foundation. ERA/FoEN is the Nigerian chapter of Friends of the Earth International (FoEI), the world environmental justice federation campaigning to protect the environment and to create sustainable societies.

ERA/FoEN currently hosts the International Secretariat of Oilwatch International, the global south network of groups resisting oil and gas extractive activities.

ERA/FoEN is co-coordinator of Friends of the Earth Africa (FoEA) campaign on Food Sovereignty as well as Climate Justice and Energy (CJE). ERA/FoEN was named premier winner of the Sophie Prize (1998) - the international award in environment and development. In 2009 ERA/FoEN won the Bloomberg Award for global tobacco control and in 2011 it was named recipient of the Ford Foundation Jubilee Transparency Award.

ERA/FoEN advocates on the most urgent environmental, human rights and social issues. We challenge the current model of economic and corporate globalization which excludes and tramples on the rights of local communities. We promote solutions that will help create environmentally sustainable and just societies.
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Endnotes
