

Lessons Learned Addressing Oil Spills in Nigeria



Introduction & Background

Conflicts Over Oil Spills in the Niger Delta

The overall goal of NSRP's interventions in Output 2 (Economics and Natural Resources) was to reduce grievances in target areas around economic opportunities and the distribution of resources. The Theory of Change for this output is that *'If citizen groups can be empowered to take non-combative action on a problem that affects them, and make systems and institutions more effective in responding, then it will lessen feelings of disempowerment and reduce some of the grievances that underlie violent conflict.'*

Following extensive research and consultation, NSRP identified three key themes that drive grievances and conflict in Nigeria, and designed interventions to address the exclusion that lies at the heart of each. One of these grievances related to environmental degradation caused by oil spills.

Resource conflicts are prevalent in the Niger Delta, where oil exploration and extraction have had devastating impacts on the natural environment. Environmental degradation caused by oil spills and gas flaring has drastically reduced the viability of agriculture and fishing, once the main sources of livelihood for most Delta communities, particularly women. Combined with the lack of other employment opportunities, this has led to a situation where conflicts easily escalate into violence. Oil spills, whether caused by equipment failure, 'third party intervention' or theft continue to be a serious problem and spawn grievances between stakeholders. Despite numerous initiatives, there has been little systematic engagement with a wide range of citizen groups to develop co-ordinated prevention and response strategies. The National Oil Spill and Detection Regulatory Agency (NOSDRA) is seen by many to lack capacity to make independent inspections and to track oil spills.

Review of NSRP Intervention/Actions

NSRP focussed initially on Rivers State in developing responses to oils spills and later expanded to Delta and Bayelsa through research and advocacy, establishing inclusive platforms and supporting dialogue.

A diagnostic study identified gaps in the management of oil spills in the Niger Delta and analysed conflict dynamics between key stakeholders, including operators, oil companies, the regulatory agency NOSDRA, communities, civil society and security agencies. Poor communication and coordination, and delays were identified as major sources of grievance and drivers of conflict.

Research evidence was used to develop an approach that promoted inclusive dialogue and negotiation towards solutions that could defuse conflict, while ensuring that the rights of communities were respected. NSRP consultation with government regulatory agencies, oil companies and community representatives led to the creation of Multi Stakeholder Platforms (MSPs) on oil spills mandated to enhance coordination of regulatory agencies, oil companies and communities on prevention and responses to oil spills in Bayelsa, Delta and Rivers states.

An inclusive approach was adopted for the formation of the MSPs to ensure all relevant actors and institutions are brought to the table. This is evident, for example, in the composition of the first MSP convened in Rivers State: Government agencies -NOSDRA, the National Environmental Standards Regulatory and Enforcement Agency (NESREA), the Rivers State Ministry of Environment, Rivers State Ministry of Information and the Nigeria

Civil Defence and Security Corps; Civil Society: Environmental Rights Action (ERA) Gender and Development Action (GADA) and the National Coalition on Gas Flaring and Oil Spills in the Niger Delta (NAGCOND); Oil companies: Shell Petroleum Development Company of Nigeria (SPDC); and some representatives of community groups...

Apart from promoting coordination of key stakeholders, NSRP also contributed to capacity building of actors involved in oil spills response and management. For example, NSRP's CSO partners trained communities affected by oil spills on how to participate in Joint Investigation Visits (JIVs) and built the capacity of community based Environmental Monitoring Teams (EMTs) to effectively and responsibly to monitor, report and engage in advocacy on oil spills. NSRP also supported initiatives to strengthen NOSDRA, notably by organising a Sensitization Workshop for selected members of the National Assembly who are critical stakeholders in the passage of the Bill for the amendment of the NOSDRA Act.

Lessons Learned

NSRP had assumed it was going to be difficult to end oil spills, not least because of the complex nature of the environment and longstanding history of tensions in transactions between state, oil companies and communities. The output was designed to explore the possibility of a framework aimed at addressing grievances linked to oil spills and violent conflict in the Delta region.

This was consistent with the overall NSRP approach of building institutional capacity, creating platforms for enhanced coordination, and so strengthening participation and accountability. The platforms were intended to build trust among stakeholders, and so reduce the propensity of communities to resort directly to violence when there is an oil spill. By understanding the process of remediation and response communities would be more likely to exercise caution; and in the longer term community members would begin to adopt legitimate means in response to oil spills. If this process was normalised and became routine over time, improved coordination would not only address immediate concerns of reduction of violence but also ultimately help to reduce oil spills.

It is important to address power relations and where possible support longer term funding of partners.

Community members feel the power is skewed towards the oil companies in terms of clean up. There are imbalances in relationship between key stakeholders; bringing actors to equally discuss the issues has been very challenging. Oil companies have not participated effectively. NSRP has helped to convince the communities to engage with oil companies, but has been less successful in getting the oil companies to engage effectively with communities.

Some successes have come at community level. It is not enough to encourage communities to come to the table, people need to be empowered. Through capacity building experience communities, represented by both men and women, have been empowered to participate in joint investigation visits (JIVs). The programme has thereby contributed to building knowledge about the risks of oil spills and the need for early response.

The approach to programme management entailed working through partners, building networks, and commissioning groups working in the field and was judged reasonably effective. Initially NSRP ran these platforms directly, but in 2016 transferred them to other organisations with grant funding. Supporting longer term advocacy through partners is clearly desirable, but the reality for partners is that programmes such as NSRP are of short

duration. Many rely on external finance, and when initiatives come to an end, they are left struggling to survive.

The Impact of Capacity Challenges of NOSDRA

Given the need for the composition of state level MSPs, NSRP engaged with state offices of the NOSDRA, after initial consultations with the leadership of the agency. Thus, NOSDRA was represented in the MSPs in the three states by its state directors and officers. It was envisaged that these officers would feedback to their headquarter findings from the field and that such inputs would contribute to decision making and policy changes. However, this assumption did not hold true as a result of the top-down institutional structure of the agency-like most government MDAs. Not only do field staff feel not empowered to take strategic decisions, not much effective communication is taking place between field offices and the headquarters.

Apart from negatively impacting on programme objectives, the limited capacity of NOSDRA field offices have affected public perception of the agency. Many communities were unaware of NOSDRA and its responsibilities. The NOSDRA head office is located in Abuja. Many community representatives complain they need to be located in the Niger Delta closer to sites of oil spills to strengthen their response. This has been raised with the National Assembly during consultations for the amendment of the NOSDRA Act, even though it is recognized that the agency's mandate is not restricted to the Niger Delta. However, the sense of social distance shared by communities would be addressed if there is improvement in internal communications and management systems in NOSDRA. NSRP facilitated a feedback session between field offices and headquarters to stimulate bottom-up communications.

As a result of NSRP interventions, some communities have more more information about to report and respond to oil spills. This is likely to raise expectations about NOSDRA. However without sustained, political will to strengthen and support NOSDRA, it would not be able to rise up to expectations and its effectiveness will remain limited. NOSDRA recognises that its enabling law and budget constrain effective management of oil spills. It has therefore sought support for changing its legislative framework. The proposed amendment seeks to enhance the agency's prosecutorial powers and its resource profile. NSRP has supported advocacy for the amendment of the NOSDRA in furtherance of the agenda of strenghtening the agency. However, there are concerns that the amendment would not have an easy sail in the National Assembly as oil companies would fight against the proposal for imposition of taxes on their profits and application of the polluter pay principle.

Expected incentives did not drive oil companies' behaviour.

By bringing actors together to share lessons the intention was that there would be peer learning for oil companies on how they can manage their assets more effectively. In the process, some of our original assumptions have been challenged – notably that oil companies would have the incentive to participate as the initiative generated dividends in form of reduced loss of revenues, staff time and reputational damage.

However, with the exception of SPDC in some specific locations, there is little evidence that oil companies have participated or engaged in learning despite NSRP establishing regular meeting opportunities. There have been examples of Chevron participating in some meetings in Delta and Rivers, however in general it has been its 'NGO' arm (PIND), which attended meetings on their behalf. This has reduced company's visibility and likely learning.

There have been repeated attempts by oil companies to establish improved communication with communities, but to little effect. Companies continue to operate on the basis of short

term responses, with no long term coherent strategy. There has been a litany of failures of initiatives, which in turn means companies are not receptive to new ideas.

SPDC has been more consistent in participating through NSRP. Their engagement is probably incentivised by very bad public relations since the Ogoni incidents in 1996. Global organisations continued to apply pressure on the company to adopt new processes and observe best practice. As a result they have been more amenable and involved in programmes. The involvement of HMG has helped with cooperation

It was hard to break the transactional approach.

Informal management arrangements of oil spills have become normalised over time. Relations between protagonists are transactional, and focus on monetary gains. Oil companies feel the only way to put things right is by giving money to key people in the community. There is no long term interest in local environmental protection. Rent seeking political economy continues to be the norm.

This NSRP approach was based on an expectation that, with sensitisation and constructive engagement, communities would adopt a different approach to the companies. However, the NSRP team under-estimated the time it would take for communities to ‘unlearn’ the usual adversarial approach, entrenched over many decades. Even communities who would be the ultimate beneficiaries of preventing oil spills have come into the space with a lot of suspicion. Often initiatives have been seen as oil companies trying to buy peace. This adversarial response is a deterrent to building dialogue, and the more companies experience negative engagement the less likely they are to commit to these kinds of programmes.

This adversarial relationship is linked to the transactional nature of the relationship between community and company. Cash exchange is the driver for many communities, who believe that if you don’t ask, you won’t get.

Some actors do not believe dialogues are the solution.

From the outset some NGOs and community actors preferred a different strategy to that proposed by NSRP. Their approach is built on action, rather than dialogue. For example Environmental Rights Action (ERA) the first NGO in environmental rights in Nigeria joined the MSP network in Rivers and Bayelsa. However they became critical of the MSP’s approach, claiming it is not strong enough; they argued that legal and mass action are more effective than dialogue. They subsequently withdrew from the multi-stakeholder platform. NSRP’s objective of promoting dialogue and coordinated responses have been challenged by the fact that skeptics find few examples of response of oil companies and governments to dialogue.

Personal economic, state and oil company incentives worked against progress.

A number of externalities affect oil spill and complicate efforts to address grievance caused by oil spills. Rising costs of petroleum products and their scarcity in oil producing communities are directly correlated to increases in theft. For some communities, addressing oil spills in a sustainable manner would require guarantees on energy security so they don’t need to seek illicit fuel to meet their basic needs.

At the same time, 70% of the Nigerian state income depends on oil revenues and tax. Regulatory institutions such as NOSDRA that promote penalties for oil spills are not only impacting on oil companies but also government;. These companies are joint ventures, typically with a government share of 50%. Penalty costs are thus also borne by government,

which naturally reduces the incentive for the government to be pro-reform. This partly explains why regulations around oil spills and gas flares have been ineffective.

Also incentives for policy change have been affected by vested interest. The cumulative advocacy for strengthening regulatory institutions through legislative reform has been challenging. Oil companies have blocked key reforms in the sector through the Petroleum Industry bill for instance because it would entail more deductions from their profits. Similarly governments have opposed aspects of the bill that would reduce their share of oil revenues and impose more obligations on them. NSRP recognized the challenge that powerful vested interests would pose for policy reform. This is why it originally restricted its direct result to promoting coordination and dialogue among stakeholders on oil spills with the expectation that it would yield some dividends in improved relations by actors at the local level. Until the incentives around government and oil company decision making change, NSRP's revised intended outcomes around oil spill policy are likely to remain unachievable.

Conclusions

The approach involving broader community actors in oil spill management in the Niger Delta through the advent of **MSPs** and **EMTs** is in the early stages of development as they are attempting to address long-standing disputes involving powerful and influential vested interests. Getting beyond the initial reaction of simply looking for or offering financial compensation, whether by community or commercial enterprise, is likely to take more time.

All told, the **multi stakeholder platforms** and **environmental monitoring teams supported by NSRP** in the Niger Delta Region **highlight the validity of the theory of change**, and could have greater potential for lasting change if taken to scale, *and* supported by a more sustained and astute political strategy.