
CONFIDENTIAL DRAFT

PEACE AND SECURITY IN THE NIGER DELTA

CONFLICT EXPERT GROUP
BASELINE REPORT

WORKING Paper FOR SPDC

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- * Luc Zandvliet authored Chapter 2, “Internal Environment”.
- * Akachukwu Nwankpo and David Nyheim authored the social, political and economic sections of the “Delta-wide issues”, and Lockton Morrissey and David Nyheim authored the security section in Chapter 3.
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- * Luc Zandvliet authored Annex B, “Management Notes”.
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ACRONYMS

bpd	Barrels per day
CA	Community Affairs
CD	Community Development
CBO	Community Based Organisation
CDC	Community Development Committee
CDO	Community Development Officer
CEG	Conflict Expert Group
CLO	Community Liaison Officer
GoN	Government of Nigeria
HQ	Headquarters
IA	Industrial Area – SPDC eastern division main office area in PHC
LTO	License to Operate
M&E	Monitoring and Evaluation
MOU	Memorandum of Understanding
NDDC	Niger Delta Development Commission
NGO	Non Government Organisation
PAC	Project Advisory Committee
PaSS	Peace and Security Strategy
PHC	Port Harcourt
PMC	Project Management Committee
PRA	Participatory Rural Appraisal
SCD	Sustainable Community Development
SCIN	Shell Companies in Nigeria
SMEs	Small and Medium Enterprises
SPDC	Shell Petroleum Development Company of Nigeria Limited

EXECUTIVE SUMMARY

The current climate of violence, insecurity and lawlessness in the Niger Delta has significantly increased the risk and cost of resource extraction. In a bid to address the difficult operating environment, SCIN initiated the development of a Peace and Security Strategy (PaSS); an integrated and comprehensive approach to establishing security through peace rather than through purely fiscal means.

The stated objective of PaSS is to set out ‘how SCIN can contribute to conflict resolution and sustainable peace in the Niger Delta’. To this end, SCIN established a Conflict Expert Group (CEG) to provide the analytical basis of the PaSS and advice on strategy formulation and implementation processes.

Analytical findings

The fieldwork for the Baseline Report was preceded by a desktop review of the 13 major conflict assessments and related reports on the Niger Delta. The resulting Synthesis Report, completed in June 2002, was used to scope the baseline fieldwork on which this Baseline Report is based.

This Baseline Report provides the findings of four months field research by CEG members and Nigerian experts on: (a) how the corporation’s internal practices affect conflict; (b) the external conflict environment the corporation faces; (c) the capacities available to draw on in PaSS implementation; and (d) likely strategic pitfalls for PaSS.

Internal corporate issues

It is clear that SCIN is part of Niger Delta conflict dynamics and that its social license to operate is fast eroding. Whereas some groups argue that SCIN consciously fuels conflict as part of a “corporate conspiracy”, the SCIN-conflict links result rather from a quick-fix, reactive and divisive approach to community engagement expressed through different areas of policy, practice and corporate culture.

* There is not a single policy, practice or element of corporate culture that, if addressed, will alone decrease company–community and communal conflict. Rather, it is the accumulation of many (seemingly small or isolated) practices that feed into conflict. A strategy to improve corporate–community relations must address these. This means that there are numerous opportunities to make a positive difference.

* The current expenditures on communities do not provide the company with a sustained LTO. There is no evidence that spending more money will lead to less conflict in the Niger Delta. If anything, there is ample evidence to suggest that providing more money to communities may even exacerbate conflict. Most causes of company–community conflicts can be addressed not by doing more things, but by doing things differently.

SCIN will be able to make a significant progress in reducing conflict in the Niger Delta within the current budget framework.

External conflict dynamics

Annual casualties from fighting already place the Niger Delta in the 'high intensity conflict' category (over 1,000 fatalities a year), alongside more known cases such as Chechnya and Colombia. The criminalisation and political economy of conflicts in the region mean that the basis for escalated, protracted and entrenched violence is rapidly being established. This not only threatens SCIN's (and the oil industry's) future ability to operate, but also Nigerian national security.

* A lucrative political economy of war in the region is worsening and will deeply entrench conflicts. Increasing criminalisation of the Niger Delta conflict system means that unless remedial action is swiftly taken, SCIN's (and the oil industry's) 'business horizon' in the Niger Delta will continue to contract. If current conflict trends continue uninterrupted, it would be surprising if SCIN is able to continue on-shore resource extraction in the Niger Delta beyond 2008, whilst complying with Shell Business Principles. Indeed, given the likely illegal oil bunkering links to political campaigns, the run-up to the 2007 Presidential elections may see a significantly earlier serious escalation of Niger Delta conflicts which will be difficult to dismantle, even to return to the former pre-election lower level on conflict. Some individuals argue that there is likely to be a plateau in the amount of oil that is stolen (between 8 and 10 percent of production) which represents a level low enough not to attract military intervention while still providing acceptable revenue flows to government and the oil producing corporations. Whilst such a state of homeostasis seems plausible, the large international oil companies could not continue to absorb the escalating costs associated with community demands (which if ignored often result in closure or occupation of company facilities, lack of access to exploration areas or physical threat to staff), or meet the standards of public accountability and transparency increasingly demanded by international bodies and shareholders.

* Micro-level conflicts are part of a complex conflict system that is issue-based, ethnic, and geographic in nature – and often span local and state boundaries. It is rare to find a 'self-contained' micro-level conflict that does not have implications for other communities beyond its locality. However, in this complexity there are two important common threads; resource control and social disintegration. Again this suggests that the oil industry can contribute to conflict resolution in and around their areas of operation. In addition, it is important to note that where there is conflict 'spill-over', there is also the potential for peace 'spill-over'. As such, the conflict system provides opportunities for conflict resolution to have a multiplier effect.

Conflict management capacities

Although there are demonstrated cases of effective conflict management in the Niger Delta, current initiatives remain limited in scope and under-resourced. SCIN's own

capacity to manage conflicts is undermined by lack of co-ordination, coherence, and analysis. External efforts are fragmented, but constitute a critical building block for conflict resolution in the region.

* The analysis of internal conflict management capacities available shows there is a significant need for SCIN to strengthen these in terms of co-ordination, coherence, utilisation, and information management.

* An assessment of external conflict management efforts gives a range of perspectives on good practice in the field. Common principles and implementation process 'ingredients' are identifiable. These provide the basis for a systematic PaSS approach to tackling micro-level conflicts.

Strategic pitfalls

SCIN cannot ignore Niger Delta conflicts or its role in exacerbating these. The 'do-nothing' option is taken at SCIN's peril. PaSS is a realistic way forward but will fail if strategic pitfalls associated to implementation are poorly managed. The odds of success depend on SCIN management commitment to the initiative. Half-hearted support and amateurish implementation of PaSS will not decrease the current significant security risks.

* Among the assumptions to the successful implementation of PaSS, the three most critical ones are resource availability/infrastructure for PaSS formulation and implementation, commitment from senior management to both SCD and PaSS, and the ability of the company to bring the oil industry/government on board. If these assumptions cannot be verified, or processes cannot be put in place for their realisation, PaSS is unlikely to succeed.

* The number of spoilers pitted against the PaSS are numerous, well resourced, and dangerous. As such, PaSS implementation requires a strategy for 'bringing over' so called "reconcilable spoilers" – and tackling through law-enforcement means those that remain "irreconcilable". It also means that individuals involved in PaSS implementation will require protection and contingency plans for their possible evacuation.

Strategy formulation

In terms of strategy formulation and implementation processes, this report concludes that PaSS will not be one strategy – but a series of strategies developed over time, each based on substantive research as well as facilitated processes that draw on key stakeholders and implementing partners. Incrementally, their implementation helps tackle the causes of conflict and conflicting interests, as well as strengthen peaceful dispute settlement mechanisms. Ultimately, PaSS will enhance human security in the Niger Delta. To be successful and positively affect the lives of people, however, each strategy has to be fully engendered. In short, the success of PaSS is dependant on the participation of key stakeholders in the formulation of the strategy and commitment to its implementation.

1. INTRODUCTION

1.1. OVERVIEW

The perception among staff in many companies that operate in a context of conflict is that the conflict only starts outside their gates. SCIN is no exception. Many in the corporation assume ‘neutrality’ in the exploration of oil in the Niger Delta. As such, conflict between SCIN and communities is attributed largely to the incapacity and/or unwillingness of the Nigerian government to deliver social services and deal with resource-scarcity in the region. SCIN is seen as a lightning-rod for community frustrations.

It is easy to conclude that any type of company or trade bringing resources to the Niger Delta will be confronted with the same problem. While this view is valid, it is also true that the manner in which the SCIN operates and its staff behaves creates, feeds into, or exacerbates conflict. After over 50 years in Nigeria, it is therefore reasonable to say that SCIN has become an integral part of the Niger Delta conflict system.

It remains a fact that the current level of violence in the Niger Delta severely reduces both SCIN’s ability to operate in the region and the impact of its social investment programmes. Pervasive agitation and crime, coupled with poor law enforcement undermine SCIN’s ability to operate efficiently in the region. The costs of engaging in resource extraction in the Niger Delta continue to escalate with the associated social investment producing a diminishing result.

As a consequence, SCIN has restructured its Community Development (CD) to become Sustainable Community Development (SCD). A component of this reorganisation is the development of a Peace and Security Strategy (PaSS); an integrated and comprehensive approach to establishing security through peace rather than through purely (previously tried) fiscal means. The stated objective of the PaSS is to set out ‘how SCIN can contribute to conflict resolution and sustainable peace in the Niger Delta’. Towards this end, SCIN established a Conflict Expert Group (CEG) to advise on strategy formulation and implementation processes, as well as the analytical basis of the PaSS.

The “Peace and Security in the Niger Delta: Conflict Expert Group Baseline Report” provides the Group’s findings of: (a) the extent and how SCIN policies, practices, and corporate values/culture create, feed into or exacerbate violent conflict; (b) an external assessment Delta-wide conflict factors and micro-conflicts that SCIN faces; (c) the conflict management capacities the corporation can draw on (and needs to develop) in order to reach its stated objective; and (d) strategic pitfalls (risks and areas of push-back) likely to be encountered during PaSS implementation.

The following introductory sections highlight assumptions and caveats in the Baseline Report, as well as an overview of the PaSS development process. The definitions used and a gender perspective on the internal and external context are provided in Annex A.

1.2. ASSUMPTIONS AND CAVEATS

The Baseline Report is based on two important assumptions:

* After operating in the Niger Delta for over 50 years, SCIN is an integral part of the regional conflict environment. An analysis that informs the development of a PaSS has to address the relationship between internal corporate issues and the external conflict context.

* As opposed to a standard conflict assessment that reviews critical issues only, an analysis focused on informing a corporate peace and security strategy also needs to look at current internal and external conflict management efforts, as well as the strategic pitfalls (or obstacles) that will be encountered during implementation.

The research process for this report is described below. However, a number of caveats related to the process need to be highlighted:

* The Baseline Report provides a “birds-eye view” of highly complex issues. As such, breadth of perspective is seen as more important than depth for initial strategy formulation.

* The research methodology has involved observation, interviews, qualitative assessments, and a peer-review process. However, the conclusions such methods yield in highly volatile and politicised environments are easily challenged for the simple fact that they are ‘judgements’.

* Given that any perceived SCIN investigation into the issues also raises expectations of forthcoming action among stakeholders, and lacking clarity on the timeframe of PaSS implementation, the ‘depth’ of research had to be limited – thus affecting some sections of the report.

* Some data used in this report (such as GNP per capita, etc.) is drawn from reliable secondary sources. Verification of such facts and figures is beyond the scope of the research process used for the Baseline Report.

1.3. PASS DEVELOPMENT PROCESS

The research process leading up to the Baseline Report has involved the following steps:

* A synthesis of existing conflict assessments and related reports covering the South-South Zone of Nigeria. The Synthesis Report provides a summary of what is known in relation to communal, corporate-community, community-government, and corporate-government conflicts as available in 13 major reports on the issue.

* A comprehensive consultative process to ensure both broad-based ownership of the PaSS and harness available expertise for its development. Through the consultative

process (interviews and meetings) insights from over 200 key stakeholders have been incorporated. Interviews and meetings have been held with community members (youth groups, women's groups, CDC members, Kings, Chiefs), movement leaders, oil industry (SCIN, Total, Statoil) staff (community relations and security personnel, production and area managers, senior management), military officers (army and navy), NGO and CBO representatives, and government officials at the local, state, and federal levels.

- * Field-visits to a range of oil producing and affected communities. Over 10 communities were visited both in the Eastern and Western divisions of SCIN. These community visits were focused on potential and actual micro-level conflicts, and served also as a means to investigate internal cross-cutting and Delta-wide issues for the Baseline Report.

- * The development and testing of a gender analysis framework. The framework was tested in two communities (Eastern and Western divisions of SCIN) and yielded important insights into the internal and external context of the PaSS.

- * Workshops with conflict management practitioners and SCIN staff dealing with conflict. These workshops brought together individuals with concrete 'ground-experience' in dealing with conflicts – and drew out lessons learned from their work.

- * The establishment of a SCIN Resource Group to provide guidance throughout PaSS development. The Resource Group consisted of key individuals within SCIN who are highly knowledgeable about the issues, steer the PaSS development process, and serve as a sounding-board for emerging thinking on PaSS directions.

- * An internal peer-reviewing process. A two-day peer-reviewing workshop was held in London (November 2003) and included senior staff from SCIN and Shell International.

Following the Synthesis Report, completed in June 2003, the CEG outlined three principles for the development of the PaSS:

- * It should draw substance direction from a baseline report of 'internal' SCIN issues that affect conflict dynamics, as well as address issues in the 'external' environment.

- * Initially, the PaSS should be narrowly focused, phased and revised in view of changing conflict dynamics and the need for both confidence-building, as well as learning.

- * It should be strongly aligned with new SCIN Sustainable Community Development principles and approaches.

During the implementation of research for the Baseline Report, four additional principles were identified:

- * The phased Peace and Security Strategies should follow a three-step approach:

- * outline broad (systemic) approaches towards conflict resolution and sustainable peace applicable to SCIN and the Niger Delta as a whole;
 - * field-test these in micro-conflict settings (e.g. Soku) to demonstrate validity and impact; and
 - * draw lessons learned, revise (systemic) approaches, and introduce them as flexible guidelines/policies to relevant stakeholders (government/companies).
- * The phased Peace and Security Strategies should be closely aligned to relevant External Relations (SCD and Security) strategies, add value and be applied synergistically (e.g. in common pilot sites such as Soku).
- * The actual design of each PaSS should be based on substantive research (baseline reports) as well as a facilitated process that draws on implementing partners. This will ensure that the PaSS reflects current priorities and capacities, and is not experienced as constraining.
- * There are certain ‘hard security’ issues (e.g. illegal oil bunkering, weapons availability, etc.) that need to be addressed for sustainable peace in the Niger Delta. Given the sensitivity of these, as well as their implications for Nigerian national security, they need to be dealt with separately and by the proper authorities.

2. INTERNAL ENVIRONMENT

2.1. INTRODUCTION

Corporate interactions with local stakeholders can have a positive or negative impact on conflict dynamics, and in the context of the Niger Delta, they are never neutral. Groups that are part of a conflict attempt to use the presence of the company to further their own agendas and SCIN faces daily work interruption due to community disturbances. These are costly and undermine the efforts of the company to sustain a social license to operate.

This chapter provides insights into the depth and variety of linkages between internal policies and practices of SCIN and external conflict dynamics. It explores the ways internal company policies and practices affect local communities and impact on company-community relations, as well as relations between and within communities.

A critical assumption amongst many SCIN staff is that conflict in the Niger Delta relates only to factors external to the company and that there is little the company can do about it. Rather, dealing with conflict is considered to be the job of external actors such as the government.

However, Baseline Report research shows that numerous internal company practices have external impacts. SCIN has more control than is generally assumed over its external environment. Multiple opportunities exist to reduce the likelihood that corporate policies and practices impact, and are impacted by conflict.

This chapter reviews three interlinked internal issues:

1. Policies that may unintentionally feed into conflict;
2. Corporate practices that have an impact on conflict; and
3. Corporate culture that influences corporate policies and practices.

An overview of key issues is provided in the table below. In each section, the relevance of particular elements to conflict is made explicit.

Policies

Practices

Culture

- * Land acquisition
- * Oil spill compensation
- * Hiring
- * Contracting
- * Benefit distribution mechanisms
- * Community engagement for risk mitigation
- * Short-term production targets supersede long-term perspectives
- * Poor policy enforcement
- * Lack of standardisation
- * Low levels of loyalty and integrity
- * Community engagement
- * Corporate assumptions
- * Status of Community Affairs and CLOs

2.2. CORPORATE POLICIES

The overwhelming majority of SCIN policies are coherent, thorough and aimed to ensure a positive contribution to Nigerian society and local communities. Most company-community conflicts can be traced back to poor company practices, not poor policies. However, aspects of current policies (land acquisition, oil spill compensation, hiring and contracting) may feed into, or even create conflict. For each, its relation to conflict, relevant policy aspects, and consequences are discussed.

2.2.1. LAND ACQUISITION POLICIES

Land acquisition and land ownership have become important conflict factors for two reasons:

- * Land ownership determines if a community is designated as a “host” community. This qualification is linked to benefits such as employment opportunities, CD projects and contracting opportunities.

* Being legitimised as the landowner is important vis-à-vis other communities, given the cultural attachment to land.

There are several practices in the land acquisition process that feed into conflict, which are discussed in the next section. At a policy level, however, there are three aspects that require attention.

* SCIN policy assumes individual land ownership. Land ownership in the Niger Delta has traditionally been communal. Individual ownership of land is a relatively new and alien concept. SCIN policy to acquire land from individuals without going through traditional structures gives rise to distrust and jealousy within a given community against the individuals who collect compensation.

* It is SCIN policy to follow Oil Production and Trade Section (OPTS) compensation rates. However, these rates: (a) do not recognise, and are much lower than, the actual market prices of the economic structures on the land (trees, crops and infrastructure); and (b) do not take a long-term lost income perspective. For example, there is no calculation of how much income a young banana tree would provide during its life. This means that land users are not adequately compensated for the negative impact on their livelihoods that result from SCIN activities.

* SCIN policy also distinguishes between landowners who get compensated for “loss of the use of land” and land users who are compensated for “surface rights”. Owners and users may not be the same people if owners allowed settlers to cultivate unused land. Sometimes such arrangements date back decades. Although the policy acknowledges both groups, it can pit these groups against each other. In some cases it has resulted in the most powerful group chasing out the other and claiming all benefits.

Land is the only marketable “stake” that communities have in the oil business. An individual land ownership assumption contributes to social disintegration as communities see benefit in forming smaller identities and make competing claims to land. Conflict is created where it did not exist before.

2.2.2. OIL SPILL COMPENSATION POLICIES

Aside from land loss, receiving compensation for oil spills is the only other means by which ordinary citizens can get access to company resources. Similar to land acquisition, it is SCIN policy to compensate only for direct negative impacts on livelihoods.

Several corporate practices in relation to oil spills are discussed in the section below on benefit distribution mechanisms. However, at a policy level, SCIN’s policy to compensate communities for oil spill damages only when it is determined they are caused by technical failure and not sabotage creates conflict.

Conflict erupts in the process of determining the cause of spills since this is linked to: (a) payment of compensation; and (b) the appointment of clean-up contractors (the company

or the community). These stakes transform oil spills from an environmental issue into a political issue – and leads to opposing positions rather than a focus on shared interests. As a result, SCIN staff and contractors have problems accessing sites for investigation or clean up. If security providers are brought in to provide access to such areas, it further feeds into community grievances against the company.

2.2.3. HIRING POLICIES

Employment opportunities with SCIN are sought on an individual level, as well as on a community level. Various communities point out that since the beginning of SCIN's operations not one single person from their community has been employed (e.g. even not from the four communities that "own" the Shell Industrial Area in Port Harcourt) and refer to the more inclusive hiring policies of Agip and Mobil.

SCIN's hiring and scholarship policies emphasise merit. This policy was designed not to favour one ethnic group over the other and to provide equal opportunities for each person. Nonetheless, ethnic groups that traditionally have had better access to education have a greater chance of obtaining SCIN employment. This leads to a general perception that Shell is ethnically biased against Niger Delta communities – and is an Igbo and Yoruba organisation. Scholarships and employment opportunities are often presumed divided among people that have connections with SCIN staff.

SCIN policy to provide support and training opportunities through scholarships, but not to guarantee employment leads to dashed hopes and frustration among those who obtained such sought-after spots and find themselves unemployed. In response to complaints, the Human Resources Department is currently working to better connect scholarships with employment opportunities. For example, all SITP graduates will be guaranteed SCIN employment.

2.2.4 CONTRACTING POLICIES

SCIN contracting policy states that contractors are responsible for their own community relations. However, about 70 percent of the conflicts that lead to work interruptions relate to contractor issues and there are currently no guidelines or policies in contractors' contracts that determine their behaviour in dealing with communities. Contractors each have their own approach.

Contracting policies award contracts based on tender only. Large contracts are not always split up to be more accessible for local contractors. Earthwork contracts and other contracts that could be done through local contractors are often awarded to large international contractors. Also, some contractors use international staff for jobs such as welders and equipment operators. This feeds local resentment and antagonism.

Poor contractor behaviour reflects badly on SCIN. Delegation of community relations responsibilities to the contractor in combination with the short-term goals of the contractor may cause long-term damage to SCIN through precedents of cash payments, a legacy of unfulfilled promises, etc.

Claims policies based on “force majeure” can also fuel conflict. SCIN community relations staff alleges that some contractors have an incentive to create conflict within communities. On several occasions community representatives accused contractors of inciting violence in order to have their own project closed down. If work stoppage cannot be tracked to the contractor’s behaviour, then contractors can claim compensation from SCIN to obtain: (a) contractual extensions; (b) exchange rate benefits on the Naira side of the contract for the duration of work stoppage; and (c) lost days due to “force majeure”. For example, Saipam was awarded USD 20 million in claims due to community unrest at the Soku Gas Plant (by comparison, the CD budget was USD 2 million).

2.3. CORPORATE PRACTICES

The majority of the company-community problems stem not from problematic policies, but from poor, or even obstructive, implementation of (mostly good) policies. There is a direct relation between some practices and conflict. Some corporate practices violate company policies that are aimed at establishing cordial relations with local stakeholders, contributing to conflict.

No single practice accounts for corporate-community conflicts. Rather, it is the cumulative effect of several poor practices at both company and community levels that cause tensions. The fact that the impact of any individual practice may not be large explains why some senior managers are not able to identify which corporate practices lead to “disproportionately” strong reactions from communities. The cumulative effect of these practices is a perception amongst communities that they cannot engage with SCIN other than through forceful or obstructive actions. There is no single solution to company-community problems.

On the positive side, the cumulative negative effects of numerous small practices indicate there are immediate opportunities for the SCIN to analyse, identify and correct corporate practices that are all within control of the company. Hence, the peace and security strategy is not an elusive “outside” activity. It starts within the company.

There are three main reasons why company practices have gradually and cumulatively developed negative impacts on corporate-community relations:

- * The company is “locked into” practices that were established decades ago. Given Shell’s long history in Nigeria, some policies and practices that were established a considerable time ago would be done differently if established at this time. Precedents have been set and policies have been institutionalised that are challenged in today’s context.

- * However, revising or correcting such policies may be costly or cumbersome. It appears cheaper and less problematic to continue “faulty” practices than to go through the trouble of adapting or creating policies and practices that reflect society’s expectations today. The beneficiaries of inappropriate practices are often well entrenched and any attempts to

change corporate practices to fall into line with Shell's Business Principles will find some significant resistance.

* Compliance with policies, and the spirit behind the policies, is weak. There is little consequence management or punishment for poor practice both for SCIN staff and for individuals and groups in the community. This allows for individual interpretation of policies or lets individuals use the company to further their own agendas and negatively impact company-community relations.

The sections below outline priority areas for corporate attention and provide perspectives on good practice that inform actions that can be taken.

2.3.1 BENEFIT DISTRIBUTION MECHANISMS

Access to benefits derived from SCIN's presence is the prominent trigger for company-community conflict, conflict between communities and conflict within communities. In the resource scarce environment of the Niger Delta, individuals and groups attempt to position themselves to access cash, contracts and legitimacy, to mention some. This leads to leadership tussles, conflicts over boundaries between villages, over who are 'genuine' inhabitants of villages, and over what kind of development projects a community receives.

There are a number of decisions and practices in the benefit distribution system that feed into, exacerbate, or even create conflict. Numerous examples of how aspects of benefit distribution happen in a cordial, systematic and positive manner are nonetheless visible. However, poor practices can be categorised around: (a) community representation; (b) compensation for land acquisition; (c) compensation for oil spills; (d) community development projects; (e) venue where benefit distribution takes place; and (f) the benefit distribution unit.

Community representation

SCIN deals with a variety of groups that "represent" the community. These include:

- * traditional rulers such as the King and the Council of Chiefs;
- * the elite (often residing outside the village) that are able to articulate community views;
- * the most powerful, vocal groups or violent ones that need to be pacified in order to prevent or minimise "walhalla" or that are able to deliver short-term peace in the area;
- * CDC Chair and Secretary; and
- * individuals within the community selected by SCIN staff.

All of these groups or individuals may or may not represent the genuine interests of the community. When there is a leadership tussle and a CLO is pressured to deliver

community input on short notice, he/she may be compelled to make a judgment call as to who is considered the community representative.

There is a history of individuals who use a community platform to further their own personal agenda at the expense of representing community interests. SCIN practices such as providing seating allowances, hotel accommodation, travel reimbursement, lunch packs and other perks reinforce this tendency.

Deep conflicts in the community exist over positions that provide access to SCIN benefits (community contractors, Chiefs, chairman and secretary of the PMC, chairman of the CDC, chair of the Youth Council). At times communities will point out that some CLOs deal with and channel company funds through individuals that do not, or no longer, represent the community.

By virtue of working with certain individuals, SCIN itself directly becomes a part of community conflicts. In some villages (Soku, for example), SCIN staff is seen as siding with one party in an internal conflict. This affects the reputation of the company as a whole.

Compensation for land acquisition

The consequences of SCIN policy to compensate individuals for land, as opposed to communities or families have been explained above. In addition, the following practices can unintentionally feed into land disputes:

- * Lack of transparency in the SCIN decision-making process on land ownership. Maps used for land acquisition purposes are often old and obsolete. New communities or settlements are not recognised as owners by SCIN without approval by the State Ministry of Land and Housing. This fuels a concern among many in communities about not being appropriately identified as owners.
- * Lack of transparency over proposed location of assets such as pipelines. Poor communication about plans leads to conflicts based on rumours even over anticipated pipeline routes.
- * Cheating in the survey process. Field assessments that determine ownership require that owners are physically present on their land when the survey takes place. Despite SCIN's best efforts to announce assessments widely, this practice allows false owners to claim land.
- * Recognizing a "wrong" owner. Pressure from the Project Department or the Land Department to "deliver" land leads to recognition of "wrong" community land claims.
- * Limited co-ordination between SCIN and State government. Use of State government officials as arbitrators in disputes is limited. It leaves the companies vulnerable to community accusations that the (non-State) arbitrators used are partial and corrupt.

* Poor records of land acquired. Often it is unclear in SCIN records if the land is leased or rented, and when rent is due.

* SCIN default on its contractual obligations. Budget cuts within SCIN (lease of land is an “opex”) means that the Land Department is not able to fulfil its contractual obligations in paying annual leases to landowners.

The impact of land acquisition practices is multifaceted.

* Conflicts over land ownership include: (a) conflicts between communities over boundaries; (b) conflict between local/State governments over boundaries; (c) conflicts between landowners and land users; (d) conflicts between “real” and “hoax” owners; and (e) conflicts between communities and SCIN.

* Recognising the wrong community leads to court cases and double payment for land.

* Lack of transparency leads to accusations over deals being made between SCIN staff and ‘hoax’ owners.

Compensation for oil spills

Problematic practices around oil spills include:

* Premature determination of the cause of an oil spill:

* Some communities will accuse SCIN of attempting to relate the cause of any oil spill to sabotage. They refer to cases such as Began where SCIN allegedly issued a statement about the cause of the spill before an investigation team had arrived.

* SCIN staff claim that communities frequently cause spills and refuse SCIN staff or outside contractors access to the spill site to determine its cause, or to clean it up so that demands for compensation can be increased.

* Poor SCIN response to oil spills:

* Communities sometimes claim that some oil spills have never been cleaned up, or are cleaned up by contractors that either bury or burn the oil causing further environmental or economic damage. Communities also claim that temporary measures such as clamps are not replaced by more permanent fixtures and thus cause consequent spills.

* Community respondents state that SCIN response teams (deliberately) do not show up within the regulation 48 hours. Communities complain that by the time the response teams do arrive, pipes have been closed and the spill has washed away to other areas.

* There is no transparency about: (a) to whom the company pays compensation; (b) the basis on which the amount is calculated; and (c) how individual or communal compensation is divided.

* There are frequent statements about corruption. Communities and some NGOs working with communities claim that:

* The Joint Investigation Process is corrupted as it attempts to declare the cause of oil spills as sabotage. They claim that community people who protest are allegedly compensated, and the faulty parts (“evidence”) are taken away and replaced. Communities also refer to independent investigation experts that have come to the conclusion that differs from those of the Joint Investigation Team.

* Some individuals in the three departments involved in the scooping, enumeration and paying for clean up (Production, CR and Land Department) are corrupt. They have incentives to minimise compensation and to select “their” contractors to clean up spills.

* SCIN staff, contractors and some community members make alliances to cause, repair and clean up oil spills. Two people spoke about SCIN staff teaching youngsters how to create a spill that looks like “equipment failure” so that they can obtain a clean-up contract and compensation.

Whether these allegations are true or not is no longer relevant from a conflict perspective. They become a reality that influences the behaviour of communities and as such, are factors the company has to deal with.

Regardless of the real causes of oil spills, affected communities are also angered by the destruction of their livelihoods. They have to seek other fishing grounds (that are sometimes claimed by other communities) and their income drops. Such resentment can have long-term implications given that communities face the consequences of oil spills on a daily basis. Their grievances make it easy to mobilise them against the company. Some feel they have few venues to express their anger other than to target the company’s production areas or by blocking the gate of the company’s headquarters.

Community Development projects

Current efforts by the company to address community needs fail to secure an LTO. The objective of empowering communities during the Participatory Rural Appraisal (PRA) process is undermined during the implementation process. PRAs raise expectations when communities are encouraged to take ownership over their own “needs”. Subsequently, they find they have little control over timeframes, project types and implementation.

PRA discussions in the villages are supposed to be the basis for CD decision-making. PRAs are seldom announced or not even conducted. Some communities claim they were never involved in the PRA process. CDOs explain that under the pressure to produce PRAs (as part of the tasks and targets) they simply do not have time to announce an upcoming visit to far-away communities.

CD staff also list the following challenges to PRAs:

* PRAs are conducted by company staff. This influences the answers the community provides as they know what SCIN is prepared to provide.

* The CDO spends only a few days in a village to conduct a PRA. This is often insufficient to truly find out the real needs and capacities of a community. CD experts acknowledge that this often leads to a “shopping-list” based on what people want and not what they need. One expert admits that PRAs are in practice used as “confirmation” tools and not as “appraisal” tools.

* Some CDOs use a pre-determined list of SCIN projects from which communities can choose. This feeds into allegations among communities of deals between CDOs and contractors.

* The PRA process is sometimes hijacked by elites that reside in urban areas but originate from the community. These elites insist that SCIN should provide similar services in the community as they enjoy in Warri or Port Harcourt (such as tennis courts). This makes it more difficult to determine genuine needs and leads to conflicts between the elite and the communities. CD projects have been destroyed as a result (e.g. Nembe).

In cases where SCIN commissioned NGOs with an ongoing presence on the ground to conduct the PRAs, the PRAs were more focused on capacity building and providing vocational training, as opposed to infrastructure.

Communities that fall under the responsibility of SCIN’s Area Teams are not involved in final project selection. The selection of both the type and the location of CD projects is done by the CDO and the CAC, and based on a combination of: (a) needs in the community (as expressed in the CD plan); (b) the business case (risk of community interruption); and (c) production volume.

The allocation and selection of CD projects in the Project Teams is sometimes done on the spot, especially when the teams face a threat of work stoppage. Promises are made without verification of the capacity of the community to handle a project (both absorptive capacity and executive capacity) and a feasibility study to ensure sustainability.

Community development is generally divided into component projects without providing the community any guarantee that there will be follow-up to complete each project. For example, an electrification project requires three sub-projects (poles, wires and a transformer) for completion. The rig team may only fund the poles project without coordinating with the pipeline team or the flow station team as to whether they can provide the wires and transformers respectively. Naturally, such decisions lead to pressure on the next team that arrives, and feed into perception that the company only wants to buy time to complete work in an uninterrupted manner. In such cases the deferment contributes to increased project risk.

The use of the Project Management Committees (PMC) can be problematic. PMCs officially fall under and report to the (elected) Community Development Committee

(CDC). The PMC is responsible for the allocation of resources and the implementation of CD projects. Although some PMCs function well, they can feed into conflict in five ways:

- * Limited experience of some PMC members makes them vulnerable to manipulation by elites and SCIN staff.
- * Some PMCs operate independently from the CDC and are much better resourced than the CDC. When PMCs are seen as better able to deliver than the CDC, the CDC's legitimacy is effectively undermined.
- * External reviews conclude that a majority of CD projects are abandoned by PMCs during the implementation phase.
- * Some projects are functional but not successful; running water is installed, but quality may be salty or non-potable; school buildings are built but there is no furniture; boats are provided without instruction in use or a strategy to meet running costs; modern hospitals are not used by the population (eg. Umuebule, Soku).
- * Community respondents complain that many infrastructure projects implemented by outside contractors are substandard and not functional.

The majority of CD projects focus on the provision of infrastructure as most managers value this over "non-tangible" capacity-building. Although infrastructure may provide a short-term LTO, experience shows that this approach by itself does not secure a long-term LTO.

Community respondents also complain about the lack of SCIN supervision and monitoring during project implementation. This leads to rumours that SCIN staff is engaged in corruption with their 'own' (external) contractors.

The transition phase from CA to CD has not yet been completed although the policy shift from CA to CD occurred in 1998. Limitations to corporate capacity to genuinely implement a CD approach in all communities means that engagement with many communities still takes place on a CA basis. "We still conduct supply-driven development projects without any capacity or feasibility study," concluded a CD insider.

Venue where benefit distribution takes place

Most interaction with communities takes place either in corporate headquarters or in closed meetings with the Council of Chiefs or traditional rulers. Occasionally other venues (e.g. hotels) are used.

Using company premises as the venue of interaction contributes to conflict in several ways:

* It does not ensure that the details of contracts, MoUs or other issues are made public. When representatives meet with companies in company headquarters, the broader community that they claim to represent may not even know that the meeting takes place.

* It allows “hoax” representatives to present themselves as legitimate, without the opportunity for the public to verify whether they actually represent the communities’ true interests.

* The company typically limits the number of people that can join a meeting. Thus, not all interest groups in communities may be able to attend. Those who are excluded can refuse to take ownership for, or to “buy-in” to the decisions made on their behalf.

* Community representatives that have meetings at SCIN premises frequently complain that upon return to the community there is a suspicion that the company has corrupted them.

The benefit distribution unit

Many of the ways in which companies interact with local people reinforce narrow group identities and differences, rather than reinforcing broader, common identities and goals. It rewards groups and individuals based on how they are different from others, not according to what they share or have in common. This may take the following forms:

* benefits are awarded to “host” and impacted communities only and not to ethnic groups or regions;

* host communities are defined as those where the company has assets and not those that are physically located over oil or gas reservoirs;

* contracts are awarded to individuals and not to communities;

* CD projects are aimed at and awarded to sub-groups such as youth or women, rather than addressing shared and larger community issues;

* benefits accrue to individual land occupants and landowners rather than to the family or community unit that traditionally owns land;

* PRAs are conducted per village or settlement and not by clan or cluster of communities; and

* managers are generally interested in establishing cordial relationships with strategically located “spearhead” communities.

An emphasis on narrower identities contributes to jealousy and conflict in several ways:

* Rewarding communities based on why they are different from others and not what they share or have in common leads to conflicts over boundaries and access to land that were previously shared.

* Rewarding groups based on narrow identities leads to fragmentation of society, “Everybody is looking for an identity by which they can extract resources from the company”. Common land associations are splitting groups into multiple associations,

with women groups and youth groups often wishing to be dealt with separate from communities. This leads to increasing numbers of “stakeholders” that the SCIN has to deal with and satisfy. Fragmentation also means that more groups can behave in obstructive manners.

* Sometimes communities obtain company benefits on the premise of “might is right”. For example, reference is sometimes made to how SCIN has obtained permission to operate in areas from powerful communities that did not own the land. This has led to court cases against the SCIN from the real owners.

2.3.2 COMMUNITY ENGAGEMENT FOR RISK MITIGATION

SCIN staff take the view that one of the main purposes of community engagement is to mitigate the risk to the corporate operations due to community disturbances. While some practices may solve immediate threats to corporate operations, approaching communities from a risk-mitigation angle leads to an implicit corporate perception that communities represent risk to the corporate operations. In turn, this leads to a series of practices that unintentionally can feed into, or reinforce conflict tendencies and increase, rather than decrease risk to the organisation. These practices are related to: (a) how and when to approach communities; (b) the use of local contractors to mitigate risk; and (c) transparency.

How and when to approach communities

It is naïve to assume that all communities are safe places for SCIN staff. Unfortunately, kidnap and assault of company staff occur regularly. Given this reality, there are several practices that, although understandable from a corporate or individual perspective, do not contribute to making communities less risky in the long-term.

Apart from CLOs, CDOs and some project staff, most SCIN staff does not visit communities regularly. There is a genuine fear to be identified in the community as Shell staff although staff mentions this fear is lower than five years ago. Senior management especially, avoid visiting communities under the assumption they run a higher risk of kidnapping. If staff, and particularly senior staff, visits the community they are typically escorted by the mobile police (MoPol).

The use of the military or police in escorting SCIN staff to the community for negotiations or meetings sends several messages:

* Youth have repeatedly expressed their frustration that it feeds into a sense of “victimisation when the company tries to bully us”.

* When communities know they are seen as risks, it furthers anger amongst them and contributes to communities becoming a risk.

* Use of the military emphasises the notion that SCIN is “stealing oil” because “why would they otherwise come armed [with police and army]?”

Resources and attention are only allocated when there is a direct and tangible “need” to mitigate a risk to core operations; typically after a threat, work stoppage or other negative community behaviour. Thus most SCIN teams show a reactive approach to community issues. CLOs complain that the focus on addressing negative manifestations rather than root causes of problems means that the company is in a constant fire-fighting mode and no problem is fundamentally solved.

Communities often complain that the only way they can be heard is by acting in a violent manner. They see little indication that SCIN will deal seriously when approached through non-violent means of communicating (e.g. letters). When the company indicates that it only responds to violent triggers, it can be sure these triggers will happen.

If the company only responds to threats or violent actions, peaceful behaviour is not adequately rewarded, violent behaviour is. It legitimises and strengthens those that are most radical and vocal while ignoring the silent and peaceful majority.

The vicious cycle of rewarding violence

The use of local contractors to mitigate risk

Using local contractors is an essential aspect of how communities directly benefit from SCIN’s presence. Contracting opportunities are much desired among communities. The point here is not to contest the provision of contract to local communities (rather, the opposite is the case) but to address the consequences if local contracts are primarily provided to mitigate risk.

Contracts are still frequently given as a strategy to quell the most vocal and potentially violent elements in communities. Contracting as the cornerstone of community relations leads in some places to conflict over obtaining contracts:

- * Powerful community elites, typically residing in urban areas influence PRAs and (financially) manipulate community leaders so that the community requests CD projects the elite can build; and
- * Vocal or violent youth demand, and gain, surveillance or maintenance contracts.