

**Corporate social responsibility practices in the Nigerian oil industry: New legal  
direction and the implications for reporting**

Osamuyimen Egbon (Essex Business School)

Uchechukwu Nwoke and Godswill Agbaitoro (Essex School of Law)

### **Abstract**

Despite several voluntary corporate social responsibility (CSR) initiatives in the Nigerian oil industry, the existential conflicts in the corporate-community relations in the Niger Delta have remained unobliterated, which a responsive regulatory framework could fix. This chapter evaluated the voluntary CSR practices and the new law-mandated CSR model vis-à-vis the host communities and reflected on how much they addressed positive affirmative duties and negative injunction duties. We argued that both duties are reciprocal and mutually constitutive such that fulfilling the duty of care to not damage the environment creates value, while executing positive affirmative duties further enhances the value created. All past CSR models, including the more recent Global Memorandum of Understanding (GMOU) seemingly underpinned by transparency and accountability, lacked the moral expectation of negative injunction duties. However, the CSR model established by the Petroleum Industry Act (PIA) 2021 does not significantly differ from prior voluntary initiatives as it lacks the mechanism for communities to hold the corporations accountable for corporate environmental impacts. The legally institutionalised CSR model seems to be the corporations' brainchild being identical to the GMOU model except with the legal add-on, thus resonating with "*the hand of Esau, but the voice of Jacob*". Ironically, the legal add-on stands to benefit the corporations more as it now made explicit the hitherto implicit freedom-to-operate under the GMOU. Given the foregoing, CSR disclosures would not go beyond rhetoric if the underlying CSR model failed to embed both the positive affirmative duties and negative injunction duties. Therefore, it is categorically imperative for the PIA institutionalised CSR model to be re-evaluated so that it can mandate corporate compliance with negative injunction duties in promoting sustainable communities. It is when this is achieved that the benefits of corporate reporting anchored on legal regulation will be realised.

### **Keywords:**

Host Community Development Trust (HCDDT); Corporate Social Responsibility; Legally Mandatory CSR Initiative; Nigerian Oil Industry; CSR Disclosure; Positive Affirmative Duties and Negative Injunction Duties

## 1. Introduction

Over the recent decades, corporations have wielded an increasing influence on virtually every facet of the global society. This has provoked wider stakeholders' demand for corporate social responsibility (CSR) commensurate with corporate influence and power (Gray, 2006; Egbon, Idemudia and Amaeshi, 2018). Scholars have similarly regarded corporations, especially multinational corporations (MNCs), as political actors because of their progressive venture into political spaces traditionally exclusive to the government (Frynas and Stephens, 2015; Hussain and Moriarty, 2018; Scherer and Palazzo, 2011). In developing countries such as Nigeria, the attribution of political status to MNCs especially in the oil industry is likely connected to the MNCs-government joint venture relations coupled with alleged corporate capture of the regulatory space (Noah, Adhikari, Ogundele and Yazdifar, 2021). Thus, it is no surprise the local communities expect those MNCs to undertake state-like functions (Idemudia, 2014a). Apparently, the corporations have been at the forefront of many CSR initiatives in Niger Delta communities and Nigeria-wide.

Notably, globalisation and other motivations have continued to induce the rise of CSR and the need for corporations to extend their responsibility beyond investors' interests (Ite, 2004; Scherer, Palazzo and Matten, 2009). Hence, both the conceptions and practices of CSR have characteristically been evolving in the dynamic global society (Matten and Moon, 2020). CSR practices by oil corporations in Nigeria have equally experienced an evolution. For example, the corporations have continued to develop, or expressed commitment to, voluntary CSR practices that have evolved from community assistance to global memorandum of understanding (GMOU<sup>1</sup>) in the Niger Delta where they operate (Ite, 2007; Muthuri, Moon and Idemudia, 2012). While the MNCs widely disclose those voluntary CSR practices, the extent those CSR practices have engendered sustainability-driven community development (SCD) are doubtful (Frynas, 2005) as they are apparently enlisted to procure the social license-to-operate - SLO (Idemudia and Osayande, 2018).

In enlisting CSR to obtain and sustain a SLO in the Niger Delta, the oil MNCs widely disclose those CSR initiatives via sustainability reports and other media. Idemudia and Ite (2010) noted that those CSR practices and the attendant reporting have continued to attract research attention. But such CSR research has been historically shaped around CSR practices in that it has largely focused on CSR outcome at the expense of the essential CSR process. CSR

---

<sup>1</sup> GMOU is supposed to reflect the ideals of sustainable development (see Chevron Nigeria, 2012), that is, the development of the present that does not undermine the interest of the present and the future generations.

outcome, according to Idemudia and Ite (2010), includes CSR practices aimed at promoting the eradication of poverty, human rights violations, and environmental degradation. In contrast, the CSR process focuses on how the corporations conceive of and design their CSR policies which incorporate issues namely, corporate accountability and transparency, plus the inclusive participation of the beneficiaries when designing and implementing CSR initiatives (Egbon et al., 2018; Idemudia and Osayande, 2018). Arguably, CSR practices in the Niger Delta is inadequate if decoupled from corporate environmental impacts on the communities. As such, this chapter discusses the extant voluntary CSR practices in relation to communities and the newly mandated or law-backed CSR model and reflects on the extent they promote a sustainable community development which not only addresses the socio-economic needs of the communities, but also the integrity of their environment.

The remainder of this chapter is organised as follows. Section two discusses the extant CSR practices oil corporations in the Niger Delta in Nigeria, while section three reflects on those practices through the lens of positive affirmative duties and negative injunction duties. Next, section four discusses the new CSR model institutionalised by the Petroleum Industry Act 2021 and section five reflects on its implications for reporting and sustainable communities. Section six then offers some concluding remarks.

## **2. CSR in the Nigerian Oil Industry**

Arguably, CSR projects in the Niger Delta started in the 1960s and 1970s when the first corporations began oil exploration and production (Aaron, 2010; Idemudia, 2009; 2010a). Corporations began by making philanthropic gestures - cash payments, award of scholarships, construction of classroom blocks, roads, hospitals, and the supply of agricultural equipment. The first wave of such projects seems to have been motivated largely by business considerations and sought to do little more than satisfy ‘the most-minimal’ moral obligations (Nwoke, 2016). Since then, these corporations have adopted various approaches towards CSR. These include community assistance and development projects (philanthropy) and, more recently, partnership approaches. The dominant partnership approaches include government-business partnerships, business-non-governmental organisation (NGO) partnerships and corporate-community partnerships facilitated by NGOs (Aaron, 2010; Idemudia, 2009; 2010b).

Thus, CSR initiatives have been on the rise in Nigeria with more visible CSR initiatives and strategies among MNCs in the oil industry (Frynas, 2005; Ite, 2007) partly in response to corporate impacts on host communities and the environment (Idemudia and Osayande, 2018). This has galvanised the predominance of CSR initiatives around the development of those

communities. As wider stakeholders expect greater visibility of corporate social and environmental actions through more disclosures (Eweje, 2007), the MNCs engage in broad disclosures of their CSR activities (Ite, 2004). However, those disclosures largely pass for CSR rhetoric detached from substantive CSR practices (Frynas, 2005) and are harnessed to portray the entities as transparent (Egbon et al., 2018) and responsible despite public outcries (Nwagbara and Belal, 2019). But these CSR practices in relation to community development in the Niger Delta are still emerging. For example, the CSR initiatives have evolved over time from one model to another, with each successive model seemingly attempting to overcome the deficiencies of the previous (Egbon et al., 2018; Idemudia and Osayande, 2018; Ite, 2007).

Ite (2007) discussed three CSR initiatives practised by Shell in the Niger Delta primarily aimed at poverty alleviation, namely community assistance (CA), community development (CD) and sustainable community development (SCD)<sup>2</sup>. The CA operates a top-down CSR strategy with emphasis on corporate philanthropy lacking the inclusive participation of the beneficiaries, and ultimately resulting in ad hoc projects that are isolated from the sustainability of those communities. Unlike the CA, the CD is construed as a bottom-up CSR strategy in departure from CA's passive community participation and the execution of ad hoc projects in that it allows the benefiting communities to develop their own development plans that embed co-ordinated projects in the community interests. However, the strategy is rooted in the myth that the communities depend on the oil corporations for their socio-economic needs. Presumably on this premise, the strategy seeks to empower the communities to reduce such dependence (Ite, 2007). Unfortunately, while both the CA and CD CSR practices primarily seek to promote poverty alleviation in host communities (Ite, 2007), they pay limited attention to the negative environmental impacts associated with oil operations in the Niger Delta (Idemudia and Osayande, 2018), which largely underpin the threat to livelihood in the region (Onyena and Sam, 2020; Pegg and Zabbey, 2013).

Like the CA and CD, the SCD strategy claims to empower the benefiting communities to ably plan, design and drive their own community development in order to improve their socio-economic life (Ite, 2007). It extends beyond the CD as it includes a mechanism for interfacing between the communities and the corporation, with the intent of fostering partnership (Ite, 2007). It signals a partnership involving the corporations, civil societies,

---

<sup>2</sup> The CSR strategies/practices (including global memorandum of understanding, discussed later) adopted by Shell and other oil MNCs in Nigeria are similar but differ in nomenclature (see Chevron Nigeria, 2012; Idemudia, 2014b; Mamudu et al., 2021). However, we choose to refer to SCD as Sustainability-driven Community Development because the current usage does not appear to embed the broad notion of sustainability.

communities, and government with a view to achieving sustainable development. An implementation of a CSR strategy that emphasised greater cooperation, transparency and accountability underpinned the emergence of the global memorandum of understanding (GMOU) model of CSR initiative currently employed by oil corporations in Nigeria. According to Chevron Nigeria (2012, p. 16), the “GMOU is based on the principles of Participatory Partnership and Stakeholder Engagement, Transparency and Accountability, Sustainability Assurance, Peace Building, Monitoring and Evaluation, and most importantly, community-driven development planning”. The GMOU model is an enhanced CSR initiative crafted to improve the livelihoods of the benefiting communities (Chevron, 2012; Egbon et al., 2018). But its transparency and underlying accountability in the interest of the communities are contestable due to the imbalance in corporate-community power that engenders corporate undue influence. For example, Egbon et al. (2018) noted that the release of GMOU funds is tied to an unpublicised stringent condition called the freedom-to-operate, which prohibits the communities from agitating against the corporation, carrying the consequence of forfeiting the hitherto approved funds if the hidden clause is allegedly violated. This clause is dictatorial as it restrains the agency of the communities to react against inappropriate corporate actions perceived by the communities as undermining their interests. It sums the GMOU not only as a good CSR initiative but also a subtle instrument deployed by corporations to stifle communities’ power to hold them accountable for unacceptable corporate practices (Egbon et al. 2018).

Like the prior CSR initiatives, the voluntary GMOU is decoupled from the environmental impacts of the corporations, which are the major rallying point for community agitations (Denedo, Thomson and Yonekura, 2019; Egbon, 2018; Egbon and Mgbame, 2020). Neglecting the environmental concern of the communities amounts to an abdication of negative injunction duties as best practices (Idemudia, 2010b; Nwoke, 2016). While the CSR practices in relation to community development in the Nigerian oil industry have inherent flaws, they have continued to change forms in part response to the dynamic and complex operating environment in which they are practised. Such changes are however commendable as they tend to encourage the participation of communities in community development initiatives, however marginal the level of participation. More recently, emphasis is shifting beyond the corporate voluntary initiatives such as the GMOU to a CSR initiative mandated by law. The Nigeria government has through the Petroleum Industry Act (PIA) 2021 mandated a new CSR strategy for the Nigerian oil industry (discussed later in section 4). While the new model is yet to be

empirically examined, this chapter examines its core provisions and offers some critiques in relation to positive affirmative duties and negative injunction duties (see sections 3 and 5).

### **3. Critique of Prior CSR Practices: Positive Affirmative Duties/Negative Injunction Duties**

Generally, there is no doubt that oil corporations in Nigeria have implemented numerous CSR projects as a portrayal of their socially responsible behaviour. They have initiated and executed development schemes for the benefit of host-communities. Yet, the prevailing argument appears to be that oil activities have caused much harm to the Niger Delta environment. In this regard, the contention is that the harmful consequences of oil extraction far outweigh the positive CSR projects of oil corporations (Bird, 2004). In looking at these harmful corollaries of oil extraction (as opposed to the social responsibility engagements of corporations in the area), an important distinction between two different CSR obligations has been offered (Ojo, 2012; Idemudia and Ite, 2006). The first is the positive obligation or ‘affirmative duty’ and the second is the duty to care for the environment or ‘negative injunction duty’. The affirmative duties are those obligations which corporations perform in aid of host-communities, including the building of roads, hospitals, schools, initiating and executing electrification projects and the commissioning of water boreholes, etc. On the other hand, negative injunction duties involve preventing and rectifying social injuries that may arise in the process of realizing business objectives – including oil spills, water and air pollution, gas flaring, acid rains, and forest fires, amongst others. Meeting these negative injunction duties are fundamental aspects of CSR, because they make up the ‘moral minimum’ which every corporation is expected to observe (Simon, Powers and Gunnemann, 1972).

In recent years, the focus of the CSR debate in the Niger Delta appears to be tilting towards deconstructing the two complimentary duties of CSR: positive affirmative duties and negative injunction duties (the duty to care for the environment). The argument is that the two duties operate reciprocally and not mutually exclusive. By fulfilling the duty of care not to damage the environment, value is created. Execution of the positive affirmative duties further enhances this value that is created (Ogula, 2012). What is seen as CSR practices by corporations in Nigeria are principally affirmative in nature. The cases and general unrest in the region are, therefore, rooted primarily on the inability of corporations to fulfil the negative injunction duties. However, the corporations seemed to have over-concentrated on the positive affirmative obligations to the detriment of the negative injunction duties (Ojo, 2012; Idemudia, 2008).

This is the predominant reason why host communities in the region continue to suffer from the adverse and obnoxious social, economic, and environmental effects of oil activities (Duruigbo and others, 2001; Idemudia and Ite, 2006). For Idemudia and Ite (2006), the failure to fulfil the negative injunction duties lies at the heart of the crisis in the region. They contend that no amount of road construction or classroom renovation can offset the consequences of oil pollution, and no amount of electrification project or award of scholarships can balance the effect of gas flaring on those communities. Similarly, Ukpongson and Onu (2004) contend that it is necessary for the corporations to understand that CSR extends beyond investing in the creation of new sources of livelihood. It also includes the duty to protect and preserve existing sources of survival for host communities. No amount of positive affirmative duties will replace the duty of adherence to the moral minimum – care for the environment.

A major consequence of corporate failure to fulfil the negative injunction duty is oil spills. John Vidal (2010), the Environmental Editor of *The Observer*, undertook an investigative journey into the hinterlands of the Niger Delta to obtain first-hand information on the situation in the Niger Delta. In his report, he documented examples of oil spills in Otuegwue village – where the putrid smell of oil spill could be smelt before it is seen and where forest and farmland were now covered in sheen of greasy oil and drinking wells were polluted. According to Vidal (2010), a broken ExxonMobil pipe in Ibeno, Akwa Ibom State, led to the leak of over a million barrels of oil into the Delta Rivers and a large oil slick was found floating on Lake Adibawa in Bayelsa State and another in Ogoniland. From existing records, there are more than 2000 principal spills and thousands more of smaller ones yet to be cleaned-up (Vidal, 2010). In this context, since 2014 Eni has reported 820 spills in the Niger Delta, with 26,286 barrels or 4.1 million litres lost (Amnesty International, 2018). Since 2011, Shell has reported 1,010 spills, with 110,535 barrels or 17.5 million litres lost, which is about the size of seven Olympic swimming pools (Amnesty International, 2018). While these are massive figures, the reality may even be worse. This is because the figures reported by the corporations are significantly at variance with those reported by the Nigerian government, which recorded 1,369 spills and 1,659 spills for Shell and ENI respectively over the same period (Amnesty International, 2018).

Another grave consequence of the non-compliance with the negative injunction duties by corporations in Nigeria is the continuous flaring of gas. Gas flaring, the smouldering of natural gas associated with oil extraction, takes place due to a range of issues, from market and economic constraints to a lack of appropriate regulation and political will (see Hassan and Kouhy, 2013). The practice results in a range of pollutants released into the atmosphere,



including carbon dioxide, methane, and black carbon (soot). The methane emissions from gas flaring contribute significantly to global warming in the short to medium term, because methane is over 80 times more powerful than carbon dioxide on a 20-year basis. In a report in 2021, the World Bank estimated that 142 billion cubic meters (bcm) of natural gas was flared in 2020 (World Bank, 2021). It also noted that gas flared in Africa (37 bcm in 2000) could produce 200 Terawatt hours (TWh) of power, equivalent to 50% of the current power consumption in the continent, and more than twice the level of power consumption in sub-Saharan Africa – excluding the Republic of South Africa. It is estimated that annual gas flaring is about 150bcm (Global Gas Flaring Reduction Initiative, 2004).

Globally, satellite data from 2020 reveals that Nigeria is one of the top seven gas flaring countries (World Bank, 2021). It is also estimated that 40% of gas produced in Nigeria is flared and that this accounts for about 12.5% of annual global flaring. However, these estimates are regarded as conservative by environmentalists, who believe that more realistic estimates should put gas flared in Nigeria at about 23bcm annually, representing about 60% of production (Environmental Rights Action, 2008). However, the reported figures of gas flare have been decreasing in recent times (Hassan, 2020). Irrespective of the reported decrease in the amount of gas flared, although scientific results show that the actual amount of gas flared globally is thrice higher than the reported (The Guardian, 2022), any amount of gas flared is hazardous.

Gas flares are not only dangerous, but also have indeed produced millions of tons of both Methane and Carbon Monoxide in Nigeria (Watts, 2004). Gas flaring, in predominantly farming communities, causes acid rains which damage and prevent the pollination and growth of crops. This produces adverse consequences on the livelihood of the Niger Delta agrarian communities because a large amount of gas is simply burned off (Okeagu and Okeagu, 2006). While other countries are trying to reduce and abolish gas flaring, it still flourishes in Nigeria (Okeagu and Okeagu, 2006), the attempt by the Associated Gas Re-injection Act 1979 to abolish gas flaring from 1984 was open to discretionary interference capable of subverting its potency. In that regard, Eze (2019) contended that the “Act did not actually abolish gas flaring but made it subject to ministerial permission”, which risk compromising due to the systemic corruption in Nigeria. Despite this regulatory lax allowing corporations to flare gas with almost impunity, a community can seek redress against them from the angle of human rights violation. A case in point here is the celebrated case of *Gbemre v. Shell* where the plaintiff sued shell that its gas flaring violated his right to dignity, which though he obtained a favourable court judgement against Shell, the outcome was never enforced due to corporate and political manoeuvres (May and Dayo, 2019).

#### **4. Institutionalised CSR Legal Framework**

Just like other developing countries and emerging economies, the concept of CSR and environmental responsibility and accountability is not new within the Nigerian business community (Amodu 2020). CSR remains a concept that defines the responsibility companies have towards the society beyond its primary obligations to its shareholders, although largely voluntary (Amao, 2014). Many of the CSR activities in the Nigerian corporate space are associated with the MNCs operating in the oil and gas sector (Tuodolo, 2009). However, the inherent opacity and human rights violations in the Nigerian oil industry call to question the effectiveness of the CSR agenda. This raises doubt whether the MNCs' CSR initiatives are underpinned by a 'conscience clause' or a means of 'managing perceptions' when it suits them (Hackett 2016). Despite the burgeoning CSR initiatives, the existential conflicts in the corporate-community relations in the Niger Delta have remained unobliterated, essentially as the CSR initiatives continue to relegate the negative injunction duties to blind spots. Such relegation indicates an emboldened CSR fraught with the abdication of moral obligations of the duty of care to not harm the communities and their environment, which a responsive regulatory framework ought to fix. Perhaps, this challenge led to the idea of establishing a clear CSR legal framework under the PIA 2021 for achieving sustainability-driven Community Development (SCD) in the oil-producing communities in Nigeria.

It is important to note that a key factor that would make any established legal framework to flourish, especially in terms of improving development, is the provision of an enabling environment. In reality, this requires the leveraging policy approaches in an environment that supports and offers incentives for corporate activities that minimise environmental and social costs, while maximising economic advantages. To achieve this, the State may need to utilise an institutionalised legal framework in the specific sector, for example, the Petroleum Industry Act 2021 through the Host Community Development Trust. The purpose is to ensure that there is a system in place that places priority on SCD in the public interest of host communities as part of the CSR from the oil industry.

CSR initiatives have metamorphosed over time to the GMOU model for community development in the oil corporations in Nigeria prior to the enactment of PIA 2021 as earlier discussed. The GMOU model seeks to promote corporate-community accountability necessary to foster the SCD in Nigeria's Niger Delta (Egbon et al., 2018). In practice, this was said to be negotiated between individual operators and the respective host communities.

It is important to mention that the application of law in regulating CSR initiatives in the oil industry preceded the PIA 2021. Specifically, the NDDC Act 2000 preceded the PIA as an

indirect CSR framework to meet the developmental needs of communities in the Niger Delta where oil operations are undertaken (see Enabulele, 2020). This government-led initiative was established and saddled with the responsibility to create a master plan for the economic and infrastructural development of the oil-rich region (Agbaitoro, 2018; Enabulele, 2020). In practice, this requires the oil corporations operating in the Niger Delta region to contribute an annual NDDC levy, which is equal to 3% of their annual budget (NDDC Act s. 14). Although the initiative is government-led, the Commission is funded by the oil corporations. As such, these corporations recognise their contribution to NDDC as part of the CSR spending (Shell, 2017). In contrast to the CSR model implemented by the state under the NDDC Act, the PIA provided for the establishment of the Host Community Development Trust (HCDDT) with an operational model like the GMOU.

Chapter III of the PIA covers broad issues on Host Communities. It covers the objectives envisioned in implementing this segment of the PIA, techniques and processes required for the execution of the PIA's purposes. It also provides for how to deliver the advantages envisaged to the affected communities hosting the petroleum assets and activities in the Niger Delta. Importantly, a key part of the section is the establishment of trust funds, financing sources, and any other features that may be required. This is heavily supported by the command-and-control approach that underpins the PIA. In this regard, S. 251 (4) provides for the establishment of a trust that is based on the findings of the host community needs assessment. This is geared towards promoting SCD, specifically, taking the form of establishing a host community development plan that is to be submitted to the Nigerian Upstream Petroleum Regulatory Commission (Commission), as the case may be, in order for the Commission to undertake its oversight function prior to the establishment of the trust. In s. 251(2), the Act provides for the needs assessment of each host community from social, environmental, and economic perspectives. It is unclear though what the environmental perspective covers under the needs assessment. Does it approve more money to the communities based on the level of environmental impacts? The Act specifically contemplates the HCDDT as a mechanism for community development, and implicitly does not contemplate it to address corporate environmental impacts. This suggests that independent of the HCDDT the communities will have to demand the corporations to address those corporate negative environmental impacts. But the communities may unlikely be able to get corporate attention until after confrontations. This raises a caveat that puts the communities' access to the allocated HCDDT funds at risk (see s. 257).

Presently, with the enactment of the PIA, under Chapter III, Section 240 (2) sets out a framework that makes CSR contribution a mandatory levy on corporations. Clearly, this approach has changed the voluntary and self-regulatory element of CSR in the industry to hard law legislation. It is expected that all voluntary host community development initiatives will now be managed under the HCDT. Under the PIA settlors, that is, a holder of an interest in a petroleum prospecting licence or petroleum mining lease or a holder of an interest in a licence for midstream petroleum operations, whose area of operations is located in or appurtenant to any community or communities are required to set up a HCDT for the benefit of their respective host communities under s. 235 of the PIA and contribute 3% of the annual operating expenses of their previous financial year to the Trust's fund (s. 240). Failure for an oil lease/license holder to establish a HCDT within the stipulated time of 12 months and subsequent reminders might have its lease/license revoked (s. 238). Much like the freedom-to-operate clause implicit in the GMOU model, s. 257 prescribed explicit deductions against the funds accruing to the communities. So, s. 257 (2) categorically states that:

“Where in any year, and act of vandalism, sabotage or other civil unrest occurs that causes damage to petroleum and designated facilities or disrupts production activities within the host communities, the community shall forfeit its entitlement to the extent of the costs of repairs of the damage that resulted from the activity with respect to the provisions of this Act within that financial year: Provided the interruption is not caused by technical or natural cause”.

Whereas the above provision might appear fair to prevent sabotage or the like, it might become a subtle weapon the corporations might deploy to subjugate the poor communities given the contested nature of the causes of pollution (majorly oil spills) in the Niger Delta. For example, Egbon and Mgbame (2020) and Amnesty International (2013) have shown that the oil corporations tend to manipulatively attribute the cause of most oil spills in the Niger Delta to sabotage so they can escape liability.

The foregoing is very concerning as the conflicts between the corporations and communities have **predominately** come from agitations over corporate negative environmental impacts. Hence, the idea of having a clear institutionalised legal framework for CSR activities would be thought to be driven by the need for the corporations to address the challenges and grievances of the host communities. Interestingly, s. 239(3f) stated that one of the objectives of the HCDT shall include, “to support local initiatives within the host communities which seek to enhance the protection of the environment”. Only this section and s. 251(2) are the relevant sections that linked the HCDT to the environment. S.239(3f) does not address negative

injunction duties rather it can be construed as the efforts of the communities to improve their environment and not the addressing of corporate negative environmental impacts. However, it does not foreclose on the environmental or other rights of the communities. In that regard, s. 239(4) categorically established that: “Notwithstanding the provisions of this Act relating to funding of the trust fund, nothing shall preclude the host communities from their entitlements under any other law.

In sum, it is important to note that the successful adoption and implementation of the HCDDT is meant to guarantee compulsory community-led CSR activities across the Niger Delta and other oil producing areas in Nigeria. However, since the PIA is new, along with institutionalised HCDDT CSR legal framework, it is quite early to judge the extent to which the framework will promote substantive SCD.

## **5. Legal approach to CSR and its implications for corporate accountability and reporting**

The importance of CSR in the management and decision-making processes of corporations cannot be over-emphasised. (Aguinis and Glavas, 2012; Jenkins, 2005). As a result, beginning from decades ago, there have been numerous academic research devoted to analysing the concept of CSR, from both developed and the developing countries perspectives. (Bowen and Johnson, 1953; Davis, 1960; Friedman, 1970; Freeman 1984; Drucker, 1984; Freeman, 2010; Carroll, 2016; Panda, D'Souza, and Blankson 2019). The predominant rationalisation of contemporary CSR practices is that they are based on the instrumental metaphor and self-interest (Brown and Fraser, 2006; Sorour, Shrivies, El-Sakhawy and Soobaroyen, 2021). In this instrumentalist metaphor, the corporations are motivated to publicising their CSR practices to improve their public image, even when what they do is at variance with the dictates of effective CSR (Cho, Laine, Roberts and Rodrigue, 2015; 2018; La Cour and Kromann, 2011; Vos, 2009). The instrumentalist metaphor enables them to avoid engaging with meaningful CSR when they believe it will not contribute to the bottom line, profit maximization (Barnett, 2016).

Crucially, the contemporary CSR is voluntary, with no enforcement mechanism where there is a breach (McInerney, 2007). Accordingly, the dearth of transparency regarding the social obligations of corporations has led to voluntary initiatives to meet obligatory responsibilities. As Tamvada (2020, p. 4) has observed, “this voluntarism leads to core required obligations being considered as mere instruments for serving businesses resulting in misleading perception of responsibility while raising questions on the effectiveness of CSR practices”. Self-regulation has equally resulted in corporations publicising their CSR practices

for strategic interests while blatantly violating human rights. For instance, Tamvada (2020, p. 4) reports that “Volkswagen has a long list of reported CSR practices but the recent scandal over diesel emissions reveals how corporates disguise themselves as good businesses under voluntarism”. The Rana Plaza disaster in Bangladesh validates limited effectiveness of voluntarism and leads to the conclusion that there is an urgent need to critically evaluate the intrinsic flaws in contemporary CSR through a systematic process. The voluntary status accorded to CSR has impeded companies from taking proactive measures towards business responsibility engagements and presents considerable challenges towards the realization of effective/meaningful CSR practices. Voluntarism has resulted in a stunted and sometimes opaque understandings of the limits of these engagements. This has led Osuji (2011) to argue that the dearth of mechanisms for the regulation of CSR, coupled with the tying of social issues to financial performance, have led to the stultification of independent development of the concept. Following from these, the predominant view appears to be that legal approaches to CSR is a necessity.

In looking at the legal approaches to CSR and their implication for corporate accountability and reporting, it is necessary to note that CSR has its roots in morality, which underlines the need for corporate actors, not only to comply with the positive affirmative duties, but also to fulfil the negative injunction duties (responsibility to not harm society and environment while positively contributing to the welfare of society and its stakeholders (Nwoke, 2016)). In this context, it is imperative for corporations to avoid disregarding their social responsibilities while pursuing their economic goals (Baden, 2016; Sachs et al., 2009). It is when corporations fulfil these two complimentary duties that they can be said to be socially responsible. The reality (as was shown in the preceding section) is that when it comes to the negative **injunction** duties, corporations in Nigeria continue to act irresponsibly towards host communities and their environment. This has led to the clamour for these business entities to be held responsible/ accountable for their actions.

Responsibility is an obligation and a duty to perform that which is supposed to be performed. Such an obligation may be ineffectively executed where there is no accountability for a failure to perform. Apparently, responsibility is essential when viewed from the context of law and accountability. According to Barry and Shaw (1979), responsibility is an aspect of duty which a person acquires because of the person’s position, function, or work. From this perspective, responsibility incorporates both obligations associated with a task and the basic functions of that task. Thus, as part of responsibility, moral obligations may be related to functional obligations of a role (Bivins, 2006).

Accountability, on its own, is ‘a moral or institutional relation in which entitlements are accorded to one agent (or group of agents) to question, direct, sanction or constrain the exercise of power by another’ (Tamvada, 2020, p. 7; see also Macdonald, 2014). For Frink and Klimoski (1998) it is the apparent desire to validate or protect a decision or act to a group of people. The action, in this context, possesses the capacity to compensate or punish, where the compensation or punishment is seen as dependent ‘on accountability conditions.’ Where there is no accountability, it will be difficult to interrogate irresponsible actions of corporate actors. The consequence is that these actors become emboldened to act only to satisfy their interest. Accordingly, it can be inferred that accountability is an effective mechanism in regulating the activities of corporate actors who have the responsibility or obligations to discharge their functions in each system (Tamvada, 2020). To be accountable, an actor must be legally responsible. Put differently, legal responsibilities come with accountability (Tamvada, 2020). As Bivins (2006) argues, when harm results from an action, and there is no legitimate excuse for the action, then the party responsible should be ethically answerable for the consequences of that action. For these reasons, legal and moral responsibilities are closely connected to accountability in the context of a meaningful discharge of functions.

Furthermore, c. 255 of the PIA requires the management committee of the HCDDT to submit mid-year report and annual report (including audited account) to the HCDDT’s Board of Trustee which would then submit the audited annual report to the settlor (the funding oil corporation). Sub-section (d) of c. 255 then requires the settlor to submit both the annual report and audit account of the HCDDT to the relevant regulatory authority. It is still unclear whether these reports will be publicly available or how much of the reports the corporations will disclose in their CSR/Sustainability reports.

As already discussed, the CSR practices aimed at sustainable community development in the Niger Delta abdicate negative injunction duties which are paramount in that volatile region. The recent CSR model incorporated in the provisions of the Petroleum Industry Act (PIA) 2021 is largely undifferentiated from current CSR practices. Its HCDDT operates apparently like the GMOU, having also legalised the subtle freedom-to-operate clause that constrains communities’ agency to resist the violation of their rights. While the model is not aptly captured by the ‘old wine in a new bottle’ metaphor, it does correspond to a ‘mixed wine in a new bottle’, being a simulacrum of GMOU with legal ratification.

## 6. Concluding remarks

This **paper chapter** has evaluated the current legal regulation of corporate social responsibility practices in the Nigerian oil industry and what this means for corporate reporting. Accordingly, it has argued that CSR initiatives that conform to best practices should as a minimum prioritise the negative injunction duties as a fundamental of justice. Without **any** doubt, the voluntary nature of earlier CSR practices has failed to comply with these negative injunction duties. Having examined the recently passed PIA 2021, and its provisions on corporate-community relations viz-a-viz corporate responsible actions, the chapter finds that very little has changed in terms of the law holding the corporations accountable for their actions in Nigeria. In this context, the intervention submits that the legislation fails to mandate corporate compliance with the negative injunction duties, although s. 102-107 offered some provisions around environmental management and gas flaring. While provisions exist in the Act encouraging responsible practices, these, arguably, promote the positive affirmative duties. Any CSR obligation, whether voluntary or mandatory, that privileges positive affirmative duties at the expense of negative injunction duties is inconsistent with community development rooted in sustainability.

If social reporting is to be meaningful and move beyond rhetoric, then the law must insist on compliance with both the positive and the negative injunction duties. It is, therefore, imperative for the government and policy makers in Nigeria to re-evaluate the recent PIA 2021, with a view to introducing provisions in the law that will mandate compliance with the negative injunction duties in relation to promoting sustainable communities. When this is done, corporations will be mandated to report, not only the positive duties they have embarked on, but also on those harmful activities associated with their activities and how the corporations have been able to avoid them, or at least minimise their adverse impacts on host-communities and their environment. It is when this is achieved that the benefits of corporate reporting anchored on legal regulation will be realised.

## References

- Aaron, K.K. (2010). Two theses on corporate social responsibility performance in the Niger Delta, in Aaron, K.K. and Dawari, G. (Eds), *Placebo as Medicine: The Poverty of Development Intervention and Conflict Resolution Strategies in the Niger Delta Region of Nigeria*, Kemuela Books, Nigeria.
- Agbaitoro, G. (2018). Legal strategy for resolving the socio-economic and environmental symptoms of the resource curse in Nigeria: the role of impact and benefit agreements (IBAs). *Commonwealth Law Bulletin*, 44(3) 381–399.



Aguinis, H., & Glavas, A. (2012). What we know and don't know about corporate social responsibility: A review and research agenda. *Journal of Management*, 38(4), 932–968.

Amao O. (2008). Corporate Social Responsibility, Multinational Corporations and the Law in Nigeria: Controlling Multinationals in Host States. *Journal of African Law*, 89-113, 94, 95

Amao, O. (2014). Emergent state practice on the creation and practice of standards on corporate social responsibility. *State Practice & International Law Journal (SPILJ)*, 1(1), 117-137.

Amnesty International (2013). *Bad Information: Oil Spill Investigations in the Niger Delta*, Amnesty International: London.

Amnesty International. (2018). Decoders helped us prove how Reckless Shell and Eni are (2018) *Amnesty International Publication*, available at <https://www.amnesty.org/en/latest/news/2018/03/niger-delta-oil-spills-decoders/#:~:text=Since%202014%20Eni%20has%20reported,realty%20may%20be%20even%20worse> (accessed 20 February 2023).

Amodu N.A. (2020) *Corporate Social Responsibility and Law in Africa: Theories, Issues and Practices* Routledge

Baden, D. (2016). A reconstruction of Carroll's pyramid of corporate social responsibility for the 21st century. *International Journal of Corporate Social Responsibility*, 1(1), 8.

Barnett, M. L. (2016). The business case for corporate social responsibility: A critique and an indirect path forward. *Business & Society*, 58(1), 167–190.

Barry, V., & Shaw, W. H. (1979). *Moral issues in business*. Belmont: Wadsworth.

Bird, F. (2004). *Wealth and Poverty in the Niger Delta: Reflections on the History of Shell's Operations in Nigeria*, Concordia Press, Montreal, CA.

Bivins, T. (2006). Responsibility and accountability. In K. Fitzpatrick & C. Bronstein (Eds.), *Ethics in Public Relations: Responsible Advocacy*, 19–38. Thousand Oaks, CA: SAGE Publications, Inc.

Bowen, H. R., & Johnson, F. E. (1953). *Social responsibility of the businessman*. New York: Harper.

Brown, J. and Fraser, M. (2006). Approaches and perspectives in social and environmental accounting: an overview of the conceptual landscape. *Business Strategy and the Environment*, 15(2), 103-117.

Carroll, A. B. (2016). Carroll's pyramid of CSR: taking another look. *International Journal of Corporate Social Responsibility*, 1(1), 3.

Chevron Nigeria (2012). *Corporate responsibility report*. Chevron Nigeria Limited: Lagos, Nigeria

Cho, C.H., Laine, M, Roberts, R.W. and Rodrigue, M. (2015). Organized Hypocrisy, Organizational Facades and Sustainability Reporting. *Accounting, Organizations & Society*, 40, 78-94.

Cho, C.H., Laine, M, Roberts, R.W. and Rodrigue, M. (2018), 'The Frontstage and Backstage of Corporate Sustainability Reporting: Evidence from the Arctic National Wildlife Refuge Bill', *Journal of Business Ethics*, Vol. 152, No. 3, pp. 865–886.

Davis, K. (1960). Can business afford to ignore social responsibilities? *California Management Review*, 2(3), 70–76.

Denedo, M., Thomson, I. and Yonekura, A. (2019). Ecological damage, human rights and oil: Local advocacy NGOs dialogic action and alternative accounting practices. *Accounting Forum*, 43(1), 85-112.

Drucker, P. F. (1984). Converting social problems into business opportunities: The new meaning of corporate social responsibility. *California Management Review*, 26(000002), 53.

Duruigbo, E., Wozniak, O. and Leighton, M. (2001). *Oil development in Nigeria: A Critical Investigation of Chevron Corporation's Performance in the Niger River Delta* (Natural Heritage Institute-nautilus institute-Human Rights Advocates: Berkeley).

Egbon, O., Idemudia, U. and Amaeshi, K. (2018). Shell Nigeria's Global Memorandum of Understanding and corporate-community accountability relations: A critical appraisal. *Accounting, Auditing & Accountability Journal*, 31(1), 51-74

Egbon, O. and Mgbame, O.C. (2020). Examining the accounts of oil spills crises in Nigeria through sensegiving and defensive behaviours. *Accounting, Auditing & Accountability Journal*, 33(8), 2053-2076.

Enabulele, O. (2020). Mitigating the effects of environmental degradation in the oil industry: an assessment of government compensation scheme in Nigeria. *Law, Environment and Development Journal (LEAD Journal)*, 16(1), 76-92.

Environmental Rights Action (2008). "Fact Sheet: Harmful Gas Flaring in Nigeria" (2008) <[http://www.foe.org/pdf/GasFlaringNigeria\\_FS.pdf](http://www.foe.org/pdf/GasFlaringNigeria_FS.pdf)> (accessed 23 February 2023)

Eweje, G. (2007). Multinational oil companies' CSR initiatives in Nigeria The scepticism of stakeholders in host communities. *Managerial Law*, 49(5/6), 218-235.

Eze, T. (2019). Updating the legal framework for the elimination of gas flaring in Nigeria. *African Journal of Criminal Law and Jurisprudence*, 4, 183-192.

Freeman, R. E. (2010). *Strategic management: a stakeholder approach*. Cambridge: Cambridge University Press.

Freeman, R.E. (1984). *Strategic management: a stakeholder approach*. Pitman: Boston.

Friedman, M. (1970). *The social responsibility of business is to increase its profits*. New York: New York Times Magazine.

- Frink, D. D., & Klimoski, R. J. (1998). Towards a Theory of Accountability in organisations and human resource management. In G. R. Ferris (Ed.), *Research in personnel and human resource management* (Vol. 16, pp. 1–51). Stamford: JAI Press.
- Frynas, J.G. (2005). The false developmental promise of corporate social responsibility: evidence from multinational oil companies. *International Affairs*, 81(3), 581-598.
- Frynas, J.G. and Stephens, S. (2015). Political corporate social responsibility: Reviewing theories and setting new agenda. *International Journal of Management Reviews*, 17(4), 483-509
- Gray, R. (2006). Does sustainability reporting improve corporate behaviour?: Wrong question? Right time? *Accounting and Business Research*, 36(S1), 65-88.
- Hassan, A. (2020). Dealing with vulnerability to carbon emission from gas flaring: the roles of transparency and utilisation policies in Nigeria. *OPEC Energy Review*, 44(4), 369-403.
- Hassan, A. and Kouhy, R. (2013). Gas flaring in Nigeria: Analysis of changes in its consequent carbon emission and reporting. *Accounting Forum*, 37(2), 124-134.
- Hackett, C. (2016) The challenge of MNCs and development: oil extraction, CSR, Nigeria and corruption. *Journal of Human Rights in the Commonwealth* 2 (2), 8.
- Hussain, W. and Moriarty, J. (2018). Accountable to whom? Rethinking the role of corporations in political CSR. *Journal of Business Ethics*, 149(3), 519-534.
- Idemudia, U. (2008). Conceptualising the CSR Development Debate: Bridging Existing Analytical Gaps, *Journal of Corporate Citizenship* Vol. 28 101
- Idemudia, U. (2009). Oil extraction and poverty reduction in the Niger Delta: a critical examination of partnership initiatives, *Journal of Business Ethics*, 90 (1) S1, pp. 91-116.
- Idemudia, U. (2010a). Rethinking the role of corporate social responsibility in the Nigerian oil conflict: the limits of CSR, *Journal of International Development*, Vol. 22 No. 7, pp. 833-845.
- Idemudia, U. (2010b). Conceptualising the CSR and development debate: Bridging existing analytical gaps. In P. Maiti (Ed.), *Corporate social responsibility: Critique, policies and strategies*, (Vol. 1, pp. 65-96), Sharda Publishing House: India
- Idemudia, U. and Ite, U.E. (2006). Corporate– community relations in Nigeria’s oil industry: challenges and imperatives, *Corporate Social Responsibility and Environmental Management*, Vol. 13 No. 4, pp. 194-206.
- Idemudia, U. and Ite, U.E. (2010). Corporate-community relations in Nigeria’s oil industry: Challenges and imperatives. In P. Maiti (Ed.), *Corporate social responsibility: Critique, policies and strategies*, (Vol. 1, pp. 44-64), Sharda Publishing House: India

Idemudia, U. (2014a). Oil companies and sustainable community development in the Niger Delta, Nigeria: the issue of reciprocal responsibility and its implications for corporate citizenship theory and practice. *Sustainable Development*, 22(3), 177-187.

Idemudia, U. (2014b). Corporate-community engagement strategies in the Niger Delta: Some critical reflections'. *The Extractive Industries and Society*, 1, 154-162.

Idemudia, U. and Osayande, N. (2018). Assessing the effect of corporate social responsibility on community development in the Niger Delta: a corporate perspective. *Community Development Journal*, 53(1), 155-172.

Jenkins, R. (2005). Globalization, corporate social responsibility and poverty. *International Affairs*, 81(3), 525–540.

Ite, U.E. (2004). Multinationals and corporate social responsibility in developing countries: a case study of Nigeria. *Corporate Social Responsibility and Environmental Management*, 11(1), 1-11.

Ite, U.E. (2007). Changing times and strategies: shell's contribution to sustainable community development in the Niger Delta, Nigeria. *Sustainable Development*, 15(1), 1-14.

La Cour, A. and Kromann, J. (2011). Euphemisms and hypocrisy in corporate philanthropy. *Business Ethics: A European Review*, 20(3), 267-279.

Macdonald, K. (2014). The meaning and purposes of transnational accountability. *Australian Journal of Public Administration*, 73(4), 426–436.

Mamudu, A., Mamudu, A., Elehinafe, F. and Akinneye, D. (2021). Recent trends in corporate social responsibilities in Nigeria - A case study of major oil firms in the Niger delta region. *Scientific Africa*, 13, e00928

Matten, D. and Moon, J. (2020). Reflections on the 2018 decade award: The meaning and dynamics of corporate social responsibility. *Academy of Management Review*, 45(1), 7-28.

May, J. R., & Dayo, T. (2019). Dignity and environmental justice in Nigeria: The case of Gbemre v. Shell. *Widener Law Review*, 25(2), 269-284

McInerney, T. (2007). Putting regulation before responsibility: towards binding norms of corporate social responsibility. *Cornell International Law Journal*, 40, 171.

Muthuri, J.N., Moon, J. and Idemudia, U. (2012). Corporate innovation and sustainable community development in developing countries. *Business & Society*, 51(3), 355-381.

Niger Delta Development Commission (Establishment etc) Act. 2000, No. 6, Law of the Federal Republic of Nigeria

Noah, A.O., P. Adhikari, B.O. Ogundele, and Yazdifar, H. (2021). Corporate environmental accountability in Nigeria: an example of regulatory failure and regulatory capture. *Journal of Accounting in Emerging Economies*, 11(1), 70-93.

Nwagbara, U. and Belal, A. (2019). Persuasive language of responsible organisation? A critical discourse analysis of corporate social responsibility (CSR) reports of Nigerian oil companies. *Accounting, Auditing and Accountability Journal*, 32(8), 2395-2420.

Nwoke, U. (2016). Two complimentary duties under corporate social responsibility Multinationals and the moral minimum in Nigeria's Delta region. *International Journal of Law and Management*, 58(1), 2-25.

Ogula, D. (2012). Corporate social responsibility: case study of community expectations and the administrative systems, Niger Delta, *The Qualitative Report*, 17 (73), 1-27.

Ojo, G.U. (2012). Community perception and oil companies' corporate social responsibility initiative in the Niger Delta, *Studies in Sociology of Science*, 3 (4), 13-14.

Okeagu, J.E., Okeagu, J.C., Adegoke, A. and Onuoha, C. (2006). "The environment and social impact of petroleum and natural gas exploration in Nigeria", *Journal of Third World Studies*, 13 (1), 199-218.

Olujobi O.J (2020) Analysis of the Legal Framework Governing Gas Flaring in Nigeria's Upstream Petroleum Sector and the Need for Overhauling Soc. Sci. 9 (132).

Onyena, A.P. and Sam, K. (2020). A review of the threat of oil exploitation to mangrove ecosystem: Insights from Niger Delta, Nigeria. *Global Ecology and Conservation*, 22, e00961

Osuji, O. (2011). Fluidity of regulation-CSR nexus: the multinational corporate corruption example. *Journal of Business Ethics*, 103(1), 31-57.

Panda, S., D'Souza, D. E., & Blankson, C. (2019). Corporate social responsibility in emerging economies: investigating firm behavior in the Indian context. *Thunderbird International Business Review*, 61(2), 267-276.

Pegg, S. and Zabbey, N. (2103). Oil and water: the Bodo spills and the destruction of traditional livelihood structures in the Niger Delta. *Community Development Journal*, 48(3), 391-405.

Sachs, S., Rühli, E., and Kern, I. (2009). Sustainable success with stakeholders: the untapped potential. Berlin: Springer.

Scherer, A., Palazzo, G., & Matten, D. (2009). Introduction to the special issue: globalization as a challenge for business responsibilities. *Business Ethics Quarterly*, 19(3), 327-347.

Shell (2017), Shell Sustainability Report 2016, Royal/Dutch Shell, Netherlands

Simon, G.J., Powers, W.C. and Gunnemann, P.J. (1972). "The responsibilities of corporations and their owners", in Beauchamp, T.L. and Bowie, N.E. (Eds), *Ethical Theory and Business*, Englewood Cliffs, Prentice-Hall, pp. 60-75.

Tamvada, M. (2020). Corporate social responsibility and accountability: a new theoretical foundation for regulating CSR, *International Journal of Corporate Social responsibility*, 5 (2), 1-14

The Guardian (2022). Oil and gas greenhouse emissions ‘three times higher’ than producers claim, (Wednesday 9 November 2022), The Guardian, Available at: <https://www.theguardian.com/environment/2022/nov/09/oil-and-gas-greenhouse-emissions-three-times-higher-than-producers-claim> (accessed 3 March 2023).

Tuodolo F (2009). Corporate Social Responsibility: Between Civil Society and Oil and Industry in the Developing World 8ACME: International E-Journal for Critical Geographies 530-541, 531

Ukpongson, M. and Onu, D. (2004), Development efforts of oil companies as perceived by rural households in selected oil producing communities of Rivers State, Nigeria, *Journal of Agriculture and Social Research*, 4 (1), 47-61.

Vidal, J. (2010). “Nigeria’s Agony Dwarfs the Gulf oil spill-the US and Europe ignore it”, (Sunday 30 May 2010), The Observer Newspaper, available at: [www.guardian.co.uk/world/2010/may/30/oil-spills-nigeria-niger-deltashell](http://www.guardian.co.uk/world/2010/may/30/oil-spills-nigeria-niger-deltashell) (accessed 26 February 2023)

Vos, J. (2009). Actions speak louder than words: greenwashing in corporate America. *Notre Dame Journal of Law Ethics & Public Policy*, 23, 673.

Wang H and others (2016) Corporate Social Responsibility: An Overview and New Research Directions *Academy of Management Journal* 59, 534–544.

Watts, M. (2004). Resource curses? Governmentality, oil and power in the Niger Delta, *Geopolitics*, 9 (1), 50-80.

World Bank. (2004). Global Gas Flaring Reduction Initiative: Report on Consultations with Stakeholders, the World Bank, and the Government of Norway available at <https://documents1.worldbank.org/curated/en/297051468762607776/pdf/272750globalgltiative0Report0no-01.pdf> (accessed 27 February 2023).

World Bank. (2021). Seven Countries Account for Two-Thirds of Global Gas Flaring (2021) World Bank Publication, available at <https://www.worldbank.org/en/news/press-release/2021/04/28/seven-countries-account-for-two-thirds-of-global-gas-flaring> (accessed 20 February 2023)