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Addressing and Mitigating Violence

Nigeria's Post-1999 Political Settlement and Violence Mitigation in the Niger Delta

Markus Schultze-Kraft

(with the collaboration of Ike Okonta, Cassandra Biggs and E. Chizoba Unaeze)

June 2013

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List of Abbreviations

AAPW	Academic Associate Peace Works
ACN	Action Congress of Nigeria
AD	Alliance for Democracy
AKWSG	Akwa Ibom State Government
ANPP	All Nigeria Peoples Party
CA	Community Assistance
CALM	Conflict Abatement through Local Mitigation
CDC	Community Development Committee
CDP	Community Development Partnership
CHOG	Commonwealth Heads of Government
CNL	Chevron Nigeria Limited
COMA	Coalition for Militant Action
CPC	Congress for Progressive Change
CSOs	Civil Society Organisations
CSR	Corporate Social Responsibility
DAC	Development Assistance Committee
DDR	Disarmament Demobilisation and Reintegration
DDRR	Demobilisation, Disarmament, Reorientation, and Reintegration
DFID	Department for International Development
EC	European Commission
ECOMOG	Economic Community of West African States Monitoring Group
EITI	Extractive Industries Transparency Initiative
EU	European Union
GMOU	Global Memorandum of Understanding
HDF	Human Development Fund
HRW	Human Rights Watch
ICDP	Integrated Community Development Project
ICG	International Crisis Group
ICJ	International Court of Justice
IDS	Institute of Development Studies
INEC	Independent National Electoral Commission
INGO	International Non Governmental Organisation
IYC	Ijaw Youth Council
JRC	Joint Revolutionary Council
JTF	Joint Task Force
LGA	Local Government Area
MEND	Movement for the Emancipation of the Niger Delta
MOSOP	Movement for the Survival of the Ogoni People
MPN	Mobile Producing Nigeria
NADECO	National Democratic Coalition
NDDC	Nigeria Delta Development Commission
NDDSC	Niger Delta Defence and Security Council
NDPI	Niger Delta Partnership Initiative
NDPIF	Niger Delta Partnership Initiative Foundation
NDPVF	Niger Delta Peoples Volunteer Force
NDTC	Niger Delta Technical Committee
NDVM	Niger Delta Vigilante Movement
NEITI	Nigeria Extractive Industries Transparency Initiative
NGO	Non Governmental Organisation
NNOC	Nigerian National Oil Corporation
NNPC	Nigerian National Petroleum Corporation

NSRF	Nigeria Stability and Reconciliation Fund
NSWG	National Stakeholders Working Group
ODA	Official Development Assistance
OECD	Organization for Economic and Co-operation Development
OPEC	Organization of Petroleum Exporting Countries
PDP	Peoples Democratic Party
PSCs	Production Sharing Contracts
RDC	Regional Development Council
RSISTF	Rivers State Internal Security Task Force
SCD	Sustainable Community Development
SPDC	Shell Petroleum Development Company of Nigeria
TOCs	Transnational Oil Companies
UN	United Nations
UNDP	United Nations Development Programme
UNIDO	United Nations Industrial Development Organization
USAID	United States Agency for International Development
YEP	Youth Empowerment Program

Executive Summary

Almost fifteen years after transitioning to civilian-electoral rule, Nigeria is still wrestling with the legacy of a protracted period of military government and the 'resource curse' associated with its huge oil wealth. The country's oil-centred political economy and political settlement geared at furthering the interests of dominant domestic and international elites have not changed much since 1999. Those elites include senior government and civil service officials, political (party) leaders and 'godfathers', influential businessmen, retired military officers, Nigerian and international oil industry bosses, and community chiefs. All of them have vested interests in maintaining or expanding their stakes in Nigeria's 'oil poker'. There are some contending, pro-reform elites in the democratic political opposition to the hegemonic Peoples Democratic Party (PDP), pockets of the state at the federal and regional levels, and civil society and the media. But they have been a relatively weak minority since the transition to civilian-electoral rule.

Violence in the oil-rich Niger Delta, in which several thousand people have lost their lives in the past twenty years, spiked in the mid-2000s. Displacing non-violent organisations and social movements struggling for 'resource control' and a halt to large-scale environmental destruction, new armed militant groups emerged and started targeting the oil industry. The federal government responded first with military intervention, but in 2009 was compelled to declare an amnesty: over 20,000 militants were disarmed and demobilised. Yet the Delta remains volatile as militant leaders were co-opted while the roots of the conflict had not been addressed; Nigeria's political settlement was expanded without becoming more inclusive or democratic.

The post-1999 settlement emerged from a military controlled transition to civilian-electoral rule that was geared towards protecting the economic, political and judicial interests of the outgoing federal military rulers and their civilian allies, who had led Nigeria into a quagmire of corruption, public mismanagement, poverty and violence. The pact also included the major oil companies ('oil majors'). Since Nigeria's independence in 1960, they had reaped great benefits from a close alliance with a succession of military governments and had high stakes in maintaining their lucrative business operations in the country after the generals' formal departure from power.

What in the pre-1999 era had been an openly illegitimate, predatory and exclusionary political settlement centred on the appropriation of massive oil rents by relatively few federal (military) elites and the oil majors, began to morph into a seemingly broader one under the new political regime. While competition for elected office at the federal, regional and local levels of government increased, this happened mostly *within* the ruling, patronage-based PDP and not *between* several genuinely representative and issue based political parties. Furthermore, with the exception of the 2011 polls, all elections since 1999 were surrounded by violence and rigged, especially those of 2003 and 2007. The political opposition has been weak, though more recently it has made some electoral inroads, especially in Nigeria's south west. With the Petroleum Industry Bill (PIB) still languishing in the National Assembly, the governance of Nigeria's vital oil industry and the distribution of oil rents remain essentially unchanged since the days of military rule. The exception is a constitutionally mandated increase to 13 per cent of the transfer of oil revenues from the Federal Account to the oil bearing Niger Delta states.

In the wake of the transition, and with their corporate brand image in shatters, the oil majors adopted a lower key public stance and evolved their corporate social responsibility activities in the Niger Delta states from community assistance to community development. Due to their unrivalled economic and technological clout they remain key players in Nigeria's oil-centred post-1999 settlement. At the same time, social mobilisation for resource control and

environmental protection in the Delta was progressively sidelined and overtaken by a plethora of armed militant and criminal groups. These groups have variably served as paid thugs for politicians, mostly of the PDP, eager to win seats in the National Assembly and the Niger Delta governorships; private protection forces for the transnational oil companies (TOCs); brokers between the oil majors and local community leaders; as well as oil thieves and kidnappers, often working hand-in-glove with members of the federal security forces and political elites.

A number of the commanders of militant groups such as the Movement for the Emancipation of the Niger Delta (MEND) were able to amass large fortunes in the past years and have effectively been co-opted into Nigeria's post-1999 settlement. The 2009 presidential amnesty played an important role in this respect, as have the (covert) bargains between former militants and the administration of President Goodluck Jonathan (2010–2011; 2011 to present) and the multi-million dollar contracts they have been given by the federal government for the protection of the oil infrastructure in the Niger Delta.

This dynamic and fluid, yet essentially conservative and predatory political settlement has significantly contributed to first, spurring violence and large-scale criminal activity in the Delta and, since 2009, pacifying the region through the co-option of militant leaders. No foundations were laid for a lasting peace or addressing the grievances of the region's communities and involving them in any meaningful way in the process. This has not precluded attempts by the federal government and the oil majors to tackle the Delta's severe development problems. Yet overall, these efforts have not borne fruit due to a lack of incentives for, and political will on the part of, federal and regional elites to follow through with programmes and improving governance. Throughout, it has been easier for them to pay militants off and default back to repressive security policies. Regardless of the serious human rights violations associated with brutal and ineffective military interventions in the Delta, the political cost involved in deploying the armed forces has been smaller than it would have been had the PDP governments in power since 1999 seriously pursued reforming Nigeria's system of appropriating and distributing oil revenues. In turn, the oil majors have greatly benefited from the alliance with the federal government, and they continue to do so. Beyond their enhanced community development initiatives they have not shown much interest in supporting deeper reforms.

The big challenges and problems remain. The 'Niger Delta question', as it is often referred to in Nigeria, is not close to resolution. The region has temporarily been pacified and oil production has gone up again, though it still falls short of Nigeria's full production potential. But the reintegration of former mid-ranking militant commanders and fighters is faltering and social unrest persists due to high youth unemployment and poverty. Large scale organised criminal activity continues. Violence could quickly re-erupt and send the Delta back to where it was before 2009 if no remedying action is taken by the Nigerian authorities and their international partners. We suggest focusing policy on the following macro areas:

- Strengthening accountability and mechanisms of redress at the local through to the federal levels of government and governance.
- Building the capacity of Niger Delta civil society, community and social organisations and movements to participate in decision making processes related to local and regional development and oil production.
- Linking the reintegration of demobilised militants into economic and social life to local development efforts in the Niger Delta, with a particular focus on job creation and vocational training for youth.

- Democratising Nigeria's political parties, especially the PDP, to move away from patronage-based and godfather politics; and strengthening the electoral process.
- Strengthening Nigeria's justice system to reduce judicial impunity, corruption, human rights violations by state security forces and (state-sponsored) criminality, such as massive oil theft and illegal oil lifting.

1 Introduction

Nigeria's experience in the past half century of authoritarian military rule, public mismanagement and corruption, social mobilisation, violence, and the spread of organised crime is intimately associated with oil. As Africa's largest oil producer, the country has been wrestling hard with the 'paradox of plenty' and the 'resource curse'. Since independence from Britain in 1960, much of Nigeria's enormous wealth has been squandered and stolen by corrupt and self-seeking national elites. They have worked in a close alliance with transnational oil companies (TOCs), which have provided the technical know-how and financial muscle to produce Nigeria's coveted high-quality crude.

In 1999, the country witnessed a transition from military to civilian-electoral rule. Hopes were high – especially in the nine oil-bearing states of the Niger Delta – that the crucial issue of access to, and distribution of, oil revenues would finally be addressed and resolved. Yet these hopes were dashed. By the mid-2000s the federal state had militarised the Delta in a brutal bid to uproot an increasingly powerful 'petro-insurgency' which had taken the place of local groups struggling peacefully for 'resource control' and an end to the destruction of the region's natural environment due to oil production operations. A 2009 presidential amnesty for armed militants resulted in a temporary drop in violence, which had killed several thousand people since the early 1990s, and attacks on the oil infrastructure in the Delta. But the region remains on the brink as the socioeconomic and political grievances that have driven social protest and armed insurgency have not been addressed, and new challenges, including large-scale organised criminal activities, have taken root.

This report analyses the nature and evolution of violence in the Niger Delta since the late 1990s, and the responses to it by the Nigerian state and international players, by using the 'political settlement' approach. This is based on the observation that elites, both Nigerian and international, have significant responsibility for, and are important actors in, the violence and large scale organised criminal activities in the Niger Delta. Analyses of the emergence of social protest and, later on, armed militancy in the Niger Delta have tended to focus on *need* (grievances due to political repression and economic deprivation), *creed* (feelings of selective discrimination and marginalisation based on beliefs and identity), and *greed* (personal or group pursuit of economic gain). Combined, these approaches capture important elements of the picture but fall short of contributing to an understanding of the broader political-institutional and political economy factors that have underpinned and driven violence in the Niger Delta since the 1990s.

A focus on the nature and evolution of Nigeria's political settlement in the wake of the transition to civilian-electoral rule helps to shed light on the fundamental question of why violence involving a growing number of state and non-state actors escalated and receded at certain points after the political transition; and what would be the elements of a more effective strategy for addressing the causes and manifestations of violence or preventing its re-emergence. Political settlements can usefully be defined as formal and informal one-off events, such as political elite pacts, peace agreements and amnesties. But they also take the form of more dynamic and fluid processes of (overt and covert) negotiation, compromise, bargaining, accommodation and coalition and network-building between powerful individuals and groups.

Nigeria's dominant elites include senior government and civil service officials, political (party) leaders and 'godfathers', influential businessmen, retired military officers, Nigerian and international oil industry bosses, and community chiefs. All of them have vested interests in maintaining or expanding their stakes in Nigeria's 'oil poker'. There are some contending, pro-reform elites in the democratic political opposition to the hegemonic PDP, pockets of the

state at the federal and regional levels, and civil society and the media. But they have been a relatively weak minority since the transition to civilian-electoral rule.

Going beyond the conventional view that political settlements can be violence-prone and development-stopping because they are not inclusive or not inclusive enough, this report argues that inclusivity on its own is a weak indicator. Rather, it is important to ask *how* a political settlement is expanded to include additional social groups; *who* is included and *why*; and *what the expansion of the settlement means for reducing the risk of violence* through improved governance and public policies. In the Niger Delta this means policies capable of addressing socioeconomic grievances and other drivers of violence including criminal opportunities associated with large-scale oil theft (locally known as ‘bunkering’), illegal oil refining, kidnapping and piracy.

The report is organised as follows: chapter two provides an analysis of the evolution and nature of Nigeria’s post-1999 political settlement; chapter three examines the accounts, drivers and trends of violence in the Niger Delta since the 1990s; chapter four focuses on the policy responses by the Nigerian state, the oil majors and international donors to the violence in the Niger Delta; and chapter five provides an outlook on what Nigerian and international actors and stakeholders should do to prevent and mitigate violence in the Niger Delta more effectively. While the report recognises that international leverage is limited, it proposes that outside stakeholders – including the UK government – should make more significant contributions to violence prevention and mitigation in the Niger Delta by facilitating political and policy dialogue between a broader range of Nigerian elites, and focusing development assistance on the fundamental governance reforms identified in this report.¹

¹ I wish to thank Ike Okonta, Cassandra Biggs, E. Chizoba Unaeze and Freida M’Cormack, who worked closely with me in the elaboration of this report. Many thanks also to Henry Okotie and Thomas Maettig of Friedrich-Ebert-Stiftung Nigeria for supporting the organisation and holding of the policy validation workshop at the Stiftung’s offices in Abuja, and the Nigerian and international workshop participants for attending the event and making significant contributions. Robin Luckham and Jeremy Lind provided insightful comments on earlier draft versions of this report. As always, I am solely responsible for any factual mistakes and/or errors of interpretation the reader might encounter.

2 Nigeria's post-1999 political settlement and the Niger Delta Question

Nigeria's politics since the transition to civilian-electoral rule in 1999 have essentially been shaped by the persistence of the long standing struggle over the access to, and distribution of, the country's huge oil wealth. Although the formal rules of the political game changed with the end of military or military-dominated government and governance, which had prevailed for most of the time since the country achieved independence from Britain in 1960, the actual processes and mechanisms through which power is contested and distributed in Nigeria have not been altered much since then. Where they have, it has often been through violence and the spread of corruption and organised criminal activities rather than democratic politics. At the core of power in Nigeria and its (violent) contestation are the relationships between key national elites and their international counterparts that play out in a web of interests primarily centred on the appropriation of oil rents. These elite relationships have shaped Nigeria's post-1999 political settlement and have had a profound impact on the conflict and violence in the Niger Delta, which produces the lion share of the country's high quality oil.

This section examines the emergence and evolution of Nigeria's post-1999 political settlement and the implications for the oil-bearing Niger Delta. We use the term 'elites' in a broad sense. They are understood as groups of powerful people who 'command a [...] large slice of the national income' and have the capacity to 'make or shape the main political and economic decisions' (Hossain and Moore 2002:2). We suggest that in post-1999 Nigeria the focus ought to be on political power holders and brokers at the federal, state and local levels. Further, our conception of 'elites' refers to groups of powerful individuals that are associated with the state and the oil industry, as well as contending and/or 'insurgent' non-state groups with significant influence over resources and communities in the Niger Delta. As such, this report analyses the role of diverse elite actors in the shaping of Nigeria's post-1999 political settlement, including political (party) leaders, businessmen, retired military officers, oil industry managers and local chiefs of a more traditional cut. By the same token, we focus on civil society and social movement leaders and commanders of different armed militant groups in the Niger Delta, who challenged – in completely different ways – the conservative and predatory yet dynamic and fluid political settlement focused on that emerged in the wake of the Nigerian military's departure from power in 1999.

Building on the relatively recent and evolving academic literature on political settlements we define them as formal and informal one-off events, such as elite pacts, peace agreements and amnesties, or a new constitution. But political settlements can also take the form of more dynamic and fluid processes of (overt and covert) negotiation, compromise, bargaining, accommodation and coalition and network-building between powerful groups of state and non-state actors, including influential and resourceful contending groups like militant, insurgent and criminal organisations (Laws 2012; Di John and Putzel 2009; Gutierrez 2011; Bratton and Masunungure 2011; Parks and Cole 2010).

In this vein, this chapter analyses, *first*, what can be called 'critical junctures' or significant political events in Nigeria since 1999. Here we focus on the initial military dominated elite pact that underpinned the country's transition to civilian-electoral rule which was followed by a series of illegitimate and rigged elections, a federal military crackdown in the Niger Delta and the 2009 presidential amnesty for Niger Delta militants – all of which contributed to cementing the conservative, predatory and oil-centred political settlement Nigeria inherited from the former military rulers. *Second*, we put the spotlight on the constitutional legal basis and framework that formally structures the access to, and distribution of, oil rents in Nigeria, and which, again, essentially dates back to the dark times when the Nigerian military ruled in cohorts with the transnational oil companies. *Third*, we focus on informal, covert alliances

and rolling elite bargains between federal and Niger Delta elites, including militant leaders, in the wake of the 2009 amnesty.²

2.1.1 Critical junctures

The 1999 elite pact and the transition to civilian-electoral rule

In the late 1990s, key sectors of Nigeria's military and civilian elites at the federal level reached an agreement that political liberalisation was in their best interest given the thoroughly discredited nature of the incumbent military regime. This 'gentlemen's agreement'³ foresaw maintaining tight control of the country's oil wealth as well as not holding the outgoing military to account for the many abuses of human rights and acts of corruption it had committed while in power (Fayemi 1999). The literature on post-1999 Nigerian politics is unequivocal in highlighting that the Peoples Democratic Party (PDP) governments of President Olusegun Obasanjo (1999 – 2003, 2003 – 2007) and Umaru Musa Yar'Adua/Goodluck Jonathan (2007 – 2011) did not meet the expectations of Nigeria's pro-democracy and human rights groups. The transition was based on an 'elite pact, which secured the exit of the military from politics' but failed to 'ensure more inclusive and effective governance' (Ibeanu and Luckham 2006).

Departing but powerful military rulers

The 1999 elite pact resulted from closed door negotiations between senior military officers and conservative sectors of Nigeria's political elite, particularly from the northern part of the country. Having been in power since the end of the First Republic in January 1966, with only a brief civilian interregnum in the late 1970s, the Nigerian armed forces and the army in particular had emerged as a powerful broker in national political and economic life.⁴ Several retired generals had gone into business – large-scale farming, banking, real estate and oil – and became multi-millionaires. They were anxious that the incoming civilian government would protect their ill-gotten wealth and sundry privileges.

Before his death in 1998, the military ruler General Sani Abacha had been under considerable local and international pressure to step down and hand over power to Moshood Abiola, a Yoruba politician from the south west region of the country and the winner of the June 1993 presidential election. The annulment of that election (adjudged to be fair and free by the international community) and the military government's execution of Ken Saro-Wiwa (the Niger Delta environmentalist and minority rights activist), prompted aggrieved Yoruba politicians to establish the National Democratic Coalition (NADECO). The Commonwealth Heads of Government (CHOG) imposed sanctions on Nigeria at their meeting in Auckland in November 1995. Nigeria had virtually become a pariah state in the international community. NADECO's goal was to get the military dictator General Sani Abacha to relinquish power to Abiola. All through the latter part of the 1990s NADECO politicians waged local and international campaigns against the military dictatorship until Abacha and Abiola died in mysterious circumstances one after the other in 1998. Their deaths provided the ruling armed forces with a window of opportunity to design a short and controlled political transition programme (Fayemi 1999).

² I am indebted to Robin Luckham for pointing me in the direction of operationalising the concept of 'political settlement' for the purpose of this report by breaking it down into three different dimensions: critical junctures, constitutional-legal framework and rolling elite bargains.

³ Author's interview, analyst, National Defence College, Abuja, 18 February 2013.

⁴ Author's interview, Nigerian NGO representative, Abuja, 19 February 2013.

In alliance with the serving military head of state, General Abdulsalaam Abubakar, the retired generals were clearly the most powerful force in the transition to civilian government. Since governance had been dominated by Northern Muslim generals since 1966, the departing generals were anxious to hand over to a civilian president from the southern part of the country, particularly the Yoruba, home region of the late Abiola. Two retired generals, Ibrahim Babangida, a former head of state, and Theophilus Yakubu Danjuma, former chief of army staff, played key roles in drafting Olusegun Obasanjo, a former head of state and fellow retired general, into the presidential race on the platform of PDP, which next to the All Nigeria Peoples Party (ANPP) and Alliance for Democracy (AD) was among the three new political parties registered for the elections. It helped that Obasanjo was a Yoruba Christian. The departing generals' backing of retired General Obasanjo, a Yoruba, to contest and win the 1999 presidential election was designed to placate NADECO and other Yoruba politicians while at the same time ensuring that a safe pair of hands able to protect the interests of the armed forces was elected. PDP was financed by the outgoing military rulers who ensured that it won the presidential election and also produced the governors in the majority of the 36 states. Of particular interest to the generals were the lucrative oil blocs in the Niger Delta that they had surreptitiously allocated to themselves since the 1980s.⁵

The armed forces laid down stiff conditions. They drafted a new constitution maintaining the federal system with a powerful centre controlling the bulk of the oil revenues and handed it down to the incoming civilian government. The liberalisation of the economy and privatisation of government owned enterprises, embarked upon by successive military governments, was to go on uninterrupted. The armed forces were to be immune from prosecution for past misdeeds. The wealth the generals had amassed while in power would not be confiscated (Obi 1999).

The transnational oil companies (TOCs)

During this pacted transition, the TOCs operating in Nigeria used their informal but very effective channels to ensure that their business interests were protected. They were particularly anxious that the 1969 Petroleum Decree (later changed to an Act), which places ownership of the Delta oil fields with the federal state, be retained. This way they would avoid having to negotiate directly with every community in the region that possesses oil-bearing land. While sanctions were not placed on Nigerian oil, the United States and European Union nevertheless wanted Nigeria to re-join the Commonwealth and resume its role as a responsible international partner, particularly in peacekeeping operations on the African continent and other trouble spots in the world.

Shell, Chevron, Exxon Mobil and a number of other oil majors operating in the Niger Delta emerged from the turbulent 1990s with their corporate brand image in tatters. They understood that with the advent of civilian government they would no longer be able to enjoy the unchecked beneficial treatment and shield Nigeria's military dictators had readily provided them in the face of increasing social mobilisation in the Niger Delta against large-scale environmental damage caused by the oil industry. Unlike the Abacha dictatorship, which in the early 1990s readily deployed troops to the Niger Delta at the request of the oil companies to quell protests, the oil majors could not expect a civilian Nigerian government to protect their interests as vigorously (Okonta and Douglas 2003). They were, however, able to adroitly negotiate a new deal for themselves in the new civilian dispensation by offering 'protection' contracts to organised militant youth groups in return for an informal license to operate in the Delta undisturbed. Since the TOCs produce the bulk of Nigeria's crude oil through joint venture operations and production sharing contracts with the state-owned

⁵ Author's interview, analyst, National Defence College, Abuja, 18 February 2013.

Nigerian National Petroleum Corporation (NNPC) they have emerged in the post-1999 settlement as a powerful, if silent player in Nigeria's economic and political life.⁶

The 1999 polls

The democratic transition, which ended with the 1999 elections, had far reaching consequences for the Niger Delta. The polls and its aftermath threw up a new generation of election-rigging politicians who did not have any real base in the local electorate, but relied on the central government and the ruling PDP to enforce their will in the various Niger Delta states. Powerful political 'godfathers', i.e. retired military officers, politicians and influential businessmen who had controlled key posts in the state and the oil industry under military rule and amassed enormous wealth, emerged (Sklar et al. 2006). They brokered deals between the Obasanjo administration in Abuja and its favoured politicians in the Delta without any participation of the region's people. The godfathers froze politics by determining even before the first vote was cast who was to be 'elected' as governors and state and national assembly members. They were able to use the considerable influence they wielded at the national level to influence political outcomes at the local level in the Delta by deploying thugs and other instruments of coercion, including youth gangs. Local politicians, increasingly seeing the former as patrons, looked to them for financial and logistical support during elections, relegating ordinary people and their civic concerns to the margins. Mounting levels of voter apathy have been recorded in the region as a consequence.⁷

According to an international observer, the 1999 polls were a 'hurried affair'.⁸ They were held in an atmosphere of uncertainty and anxiety. The generals had annulled the results of a similar election six years earlier, and no one knew whether they would do the same again. Consequently, prominent human rights activists, community leaders and respected politicians who otherwise would have put themselves forward for elected office chose to stay out, leaving the field wide open for opportunists and corrupt politicians. Powerful grassroots social movements, such as the Movement for the Survival of the Ogoni People (MOSOP), became less prominent as cynical and self-serving politicians took over control of the government of Rivers state and other states in the region. The elections were marred by widespread violence and election rigging, particularly in the Niger Delta. Observers from the Carter Centre stated that 'it is not possible for us to make an accurate judgement about the outcome of the presidential election' (Kew 1999).

Cracking down on Niger Delta social and 'resource control' mobilisation

Even as General Abubakar and the armed forces were preparing to hand over power to an elected government they were also battling youth from Ijaw, the largest ethnic group in the oil-rich Niger Delta. Under the auspices of the Ijaw Youth Council (IYC) in December 1998 they issued a declaration (Kaiama Declaration) asking the oil companies to quit their oil fields in Ijaw territory until Nigeria's political structure was renegotiated to make for proper federalism and also ensure that the Ijaw got a fair share of the oil revenue (IYC 1999). The federal military government deployed the armed forces to Ijaw land where they killed scores of youth activists. 'The region witnessed a period of state-sponsored terrorism as the crackdown on supporters of "resource control" intensified [...]. The approach adopted by the federal government [...] radicalised the Niger Delta youth to become more vocal and proactive in participating in the politics of resource control and local resistance. The Kaiama

⁶ The lion share of Nigeria's oil is produced by transnational oil companies through joint ventures with the NNPC, which does not operate any assets. Most of the joint ventures operate in the on-shore sector. More recently, Nigeria has introduced Production Sharing Contracts (PSC), which do not require Nigerian government investments and entail a higher risk for the transnational operators but also higher potential rewards. PSCs are predominantly used in off-shore oil production. Author's interview, NNPC official, Abuja, 22 February 2013.

⁷ Author's interview, Nigerian NGO specialised in electoral processes and election observation, Abuja, 19 February 2013.

⁸ Author's interview, INGO representative, Abuja, 22 February 2013.

Declaration and the activities of the IYC quickly caught on, with hitherto passive organisations and communities becoming belligerent' (Ako 2011 cited in Obi and Rustad 2011:45).

Cementing the *status quo*: the 2003 and 2007 election cycles

The 2003 and 2007 elections of the president, members of the National Assembly and state governors and assemblies were marred by widespread violence and election rigging, particularly in the Niger Delta. In 2003, any remaining hopes for democratic political change that had survived after the 1999 polls were dashed by the ruling PDP's determination to stay in power by whatever means.⁹ Mostly in the run-up to the polls but also on Election Day some 100 people were killed nationwide, as rival armed gangs loyal to the various political parties fought pitched battles. While the majority of the violence was caused by PDP politicians, the other political parties also had their own paid thugs. In the Niger Delta the ruling PDP mobilised and funded armed youth militias who terrorised the populace and snatched ballot boxes. This was particularly widespread in Rivers state (Human Rights Watch 2003).

The 2007 elections were held against the background of fiery rhetoric and abuse exchanged by politicians of the various political parties. Outgoing President Obasanjo had declared that the election was going to be a 'do or die' affair and, as in 2003, that he was determined to ensure that the ruling PDP retained power (Aham 2006). Nothing was done to correct the lapses observed in previous elections, and the Independent National Electoral Commission (INEC) was seen by most citizens as a pliant tool of Obasanjo and the PDP. The election, which brought Umaru Yar'Adua, a Muslim northerner, to power, was marked by violence and election rigging on a very large scale. Observers from the European Union described the elections as among the worst they had witnessed anywhere in the world (Dube 2007). Corrupt politicians, backed by godfathers openly mobilised gangs of thugs to terrorise citizens and political opponents and to stuff or steal ballot boxes. The police were often present, but they turned a blind eye to all these abuses. Human Rights Watch estimated that at least 300 people were killed in violence linked to the 2007 elections (Human Rights Watch 2007).

In sum, the 2003 and 2007 polls strengthened the hold on power of political elites associated with the ruling PDP in Abuja, the capital, on their counterparts in the states of the Niger Delta. State and local elites relied on their political godfathers in the capital to nominate them to lucrative offices and also to ensure that they received their share of the oil rent – disbursed monthly to the 36 states of the federation from the capital. National, state and local-level PDP politicians became all-powerful and unaccountable, ignoring the complaints of the citizenry that such pressing issues as jobs, health care, quality education and physical infrastructure had not been addressed.

The 2011 elections: a small crack in the post-1999 settlement?

The 2011 polls were an improvement on the elections in 2003 and 2007.¹⁰ This was because civil society organisations had played a key role in ensuring that Yar'Adua's vice-president, Goodluck Jonathan of the PDP, was sworn in as president when Yar'Adua died in 2010 after only three years in office. A cabal in the presidency, composed mainly of Yar'Adua's loyalists had wanted a northerner to succeed Yar'Adua and thus ensure that northern Muslims occupied the presidency for eight years like Obasanjo, a Christian southerner, had done. A grateful Jonathan promised to clean up the INEC and ensure that the coming 2011 elections were fair and transparent. He appointed Attahiru Jega, a respected academic and human

⁹ Author's interview, INGO representative, Abuja, 22 February 2013.

¹⁰ Author's interview, Nigerian NGO representative, Abuja, 19 February 2013.

rights activist to head the INEC. Jega created a new voters' register, improved transparency in reporting results and publicly pledged to hold accountable those who broke the rules. Elections were held in most parts of the country in a largely peaceful atmosphere. There were few reported incidents of violence. Even so, thugs were reported to have hijacked ballot boxes, particularly in south east Nigeria and in the Niger Delta.

The 2011 polls saw two opposition parties, the Congress for Progressive Change (CPC) and Action Congress of Nigeria (ACN) making some inroads. ACN won the governorship elections in five of the six states in the south western part of the country, while Muhammadu Buhari, the CPC presidential candidate, was able to give PDP's Jonathan a credible fight. However, to this day the PDP remains the dominant party in the states and the National Assembly, and all presidents since 1999 have been members of the PDP.

Military crack-down in the Niger Delta and the 2009 amnesty

A first attempt to restore security and law and order in the Niger Delta by military force was in January 1994. Following complaints by Shell and other oil majors that they had lost large amounts of revenue due to the activities of Ken Saro-Wiwa and the Movement for the Survival of Ogoni People (MOSOP), Lt. Col. Dauda Komo, military administrator of the Niger Delta state of Rivers, established the Rivers State Internal Security Task Force (RSISTF). In a bid to force the MOSOP to allow Shell, which they had expelled in January 1993, to return to the Ogoni oil fields, the RSISTF, headed by Major Paul Okuntimo proceeded to attack, arrest and kill members of MOSOP and also rape women in Ogoniland. RSISTF and Major Okuntimo were to play a role in the chain of events that culminated in the hanging of Ken Saro-Wiwa and eight other MOSOP leaders in November 1995.

The 2003 Joint Task Force (JTF) was modelled closely on the 1994 RSISTF. The JTF is a combined navy, army, air and police force with a mandate to secure oil installations, curb oil community agitation and neutralise any threat to the oil industry. It was created by President Obasanjo three years after he deployed the armed forces to raze the Niger Delta village of Odi, killing an estimated several hundred of its inhabitants.¹¹ The decision to create and deploy the taskforce was taken by President Obasanjo and his advisers following the rise in kidnappings of oil workers by armed youth gangs. Some of these gangs were also involved in the hacking of pipelines and oil theft (locally known as 'bunkering'), and it was felt that a show of military force would deter them. The JTF quickly morphed into an army of occupation in the Niger Delta, harassing local people and detaining them in military installations at the slightest provocation. It was this blatant abuse of power, along with the detention in prison of Bayelsa state Governor Diepreye Alamiyeseigha and Asari Dokubo, leader of the Niger Delta Peoples Volunteer Force (NDPVF),¹² in 2005, which paved the way for the emergence of the Movement for the Emancipation of the Niger Delta (MEND) in early 2006.

MEND announced its emergence in January 2006 by bombing strategic oil installations, harassing oil workers and generally making the Niger Delta a hostile environment for the oil companies to operate in. In the beginning, MEND was able to alter the balance of power to its advantage by engaging the JTF in shootouts and putting considerable pressure on JTF units.¹³ JTF commanders responded with fierce, often indiscriminate military action. Ultimately, none of the warring parties gained a clear upper hand in this face-off; and JTF was not able to prevent MEND from bombing oil installations and disrupting the flow of crude to the oil terminals (Ukiwo 2007). It was not until President Umaru Yar'Adua declared an all out war on MEND and other militant groups in the Niger Delta in 2009 that the JTF started

¹¹ The village was attacked by the federal military on the basis of the allegations that it harboured militants who had killed several policemen.

¹² The NDPVF was an armed militant group established by Dokubo to fight for a greater share of the oil revenue for the people of the region.

¹³ Author's interview, analyst, National Defence College, Abuja, 18 February 2013.

bombing camps and villages used by the militants, compelling them to accept the presidential amnesty and the Disarmament, Demobilisation and Reintegration (DDR) programme.¹⁴

Three months after he assumed office in May 2007 President Yar'adua instituted the Niger Delta Technical Committee (NDTC) to chart a 'road map' to peace in the Niger Delta. The 18-member NDCT was composed largely of youth and community leaders drawn from the Ijaw, the largest ethnic group in the region. Initially, the committee conceived the amnesty and the DDR programme for the Delta militants as part of a broader four-year strategy with the overarching objective of developing the region. The underlying assumption of this plan was that development in the Delta could only happen if peace and security was restored and the oil industry could resume its normal operations.¹⁵

Yet following the hijacking of equipment belonging to the international oil company Chevron in June 2009, President Yar'Adua ordered the JTF to root out MEND and the other militias from their camps in the Delta creeks. Several villages in the western Niger Delta were bombarded by helicopter gunships leading to severe loss of lives. On 25 June, the president unilaterally declared an amnesty for the militants on the condition that they would disarm and partake in a demobilisation and reintegration programme designed by the federal government (Adigun 2009). While the bulk of the militant leaders accepted this olive branch, the more comprehensive and longer term development components of the federal government's Niger Delta strategy were shelved.¹⁶

Ordinary members of the militant groups, estimated to number 20,000, were taken to camps where they were paid a monthly subsidy and received vocational training.¹⁷ Their leaders were compensated with lucrative contracts in the oil industry, worth millions of dollars. The underlying problems in the Niger Delta – incessant oil spills leading to pollution of farmlands and rivers, large scale unemployment, lack of social and physical infrastructure including schools, hospitals and roads, corrupt and unaccountable politicians, and a refusal of the federal government to increase the oil revenue allocation accruable to the Delta states beyond the 13 per cent stipulated by the 1999 Constitution – remained unresolved.

While the amnesty and the DDR programme have restored relative peace to the region, enabling the oil companies to increase production to pre-2006 crisis levels (though not to the level of Nigeria's full production potential), a large number of youth and many of the former mid-ranking commanders of the militant groups are yet to be reintegrated into political and social life. Unemployment remains rife. Oil theft and the illegal refining of stolen crude, organised by these youth in collaboration with powerful regional and national elites, is rampant and increasing.¹⁸

¹⁴ There is some preliminary evidence that ending the spiralling violence through an amnesty was first proposed by militant leaders themselves. Faced with a heavy government military onslaught and sustaining significant casualties and disruption of their criminal businesses – foremost the theft of oil and the refining of stolen oil – the militants signalled to Abuja that they would be prepared to lay down their arms in exchange for judicial impunity and significant reintegration funds and government contracts for the protection of the oil infrastructure in the Delta. Author's interviews, analyst, National Defence College; advisor to the president, Abuja, 18 and 21 February 2013. For more detail on the 2009 amnesty and the DDR programme see section 4.2 below.

¹⁵ Contribution by a former member of the NDTC in the policy validation workshop organised by the author in Abuja, 20 February 2013.

¹⁶ The original objectives of the Niger Delta Development Master Plan were far reaching, including economic growth, infrastructural development, and addressing regional communities' specific needs and environmental preservation. The elaboration of the plan took more than four years and millions of dollars were wasted on the exercise which did not produce any tangible outcomes. Contribution by a former member of the Niger Delta Technical Committee in the policy validation workshop organised by the author in Abuja, 20 February 2013.

¹⁷ There is much speculation in Nigeria about the actual numbers of Niger Delta militants. During the policy research validation in Abuja, several sources indicated that militant numbers were bloated by the commanders to gain access to larger reintegration funds. The federal government appears not to have conducted a pre-demobilisation assessment of the number of militants, which could have been as low as 5,000. Author's interviews, analyst, National Defence College; INGO representatives, Abuja, 18, 19 and 22 February 2013.

¹⁸ See section 3.3 below.

2.1.2 Constitutional-legal framework

The 1999 constitution and a number of laws enshrine the federal state's rights and obligations *vis-a-vis* the oil-bearing states in the Niger Delta and determine the appropriation and distribution of oil revenues. Overall, this constitutional-legal framework has resulted in strengthening the central government's position and disadvantaging the oil-bearing states, though the 1999 constitution introduced a significantly higher oil revenue 'derivation' percentage (see below). The constitutional-legal framework that has underpinned the exploitation of Nigeria's oil wealth and the country's political settlement since the transition to civilian-electoral rule essentially dates back to the beginning of the country's independent history and a succession of military governments that dominated politics and governance in the period 1960–1999. The cornerstones of this framework are the Petroleum Act of 1969; the Indigenization of Foreign Enterprises Decree of 1972, the laws establishing the Nigerian National Oil Corporation (NNOC) in 1971 and, in 1977, the Nigerian National Petroleum Corporation (NNPC); the Land Use Act of 1978 and the 1999 constitution, which incorporates the Land Use Act. In 2012, President Jonathan introduced the Petroleum Industry Bill to the National Assembly where it is awaiting passage.

Since 1960, when Nigeria gained independence and the first commercial quantities of oil had just been discovered, the rentier interests of the federal state have underpinned the making of oil-related legislation (Garuba 2010). Given the fact that most of Nigeria's oil is produced by TOCs with whom the state operates joint ventures, the corporate interests of the oil majors are coincidentally served, protected and promoted by the state's rent-seeking devices. The local oil-bearing communities more often than not have been systematically sidelined and their views and interests have hardly been considered in the making of oil-related legislation (Garuba 2010; Okonta 2008). At Independence in 1960, the revenue allocation formula allowed the federating regions to retain 50 per cent of all revenue they generated. Following the creation of states on the eve of the Biafra secessionist war (1967–1970)¹⁹ and subsequent military rule, the states' share of revenue was reduced to 20 per cent. During the regime of General Muhammadu Buhari (1983–1985) the revenue share of the oil producing states of the Niger Delta was reduced to 1.5 per cent. General Ibrahim Babangida's government that overthrew Buhari in a palace coup in 1985 increased this to three per cent in 1992. The 1999 constitution that ushered in civilian rule further increased the oil states' share of oil revenue to 13 per cent. In spite of the boost to their treasury since 1999, social expenditure in the oil producing states has not been significantly increased. Instead, governors and other public officials have been accused of embezzling these funds.

Towards the end of the Biafra war, the federal government promulgated the Nigerian Petroleum Decree No. 51 (1969), which vested the entire ownership and control of all petroleum in Nigeria with the state and/or its agency. The Petroleum Decree of 1969 and its correlate, the Petroleum (Drilling and Production) Regulation of 1969, was a fairly comprehensive law with provisions for protecting the environment from damage caused by petroleum extraction. The ownership and control of oil and gas within any land in Nigeria as well as under its territorial waters or continental shelf was vested entirely to the federal government which was legally empowered to compulsorily acquire land for oil companies under the 'power of eminent domain' as long as compensation was paid to the land owners. In 1971, as part of the drive to step up its participation in the oil economy, the federal government established the Nigerian National Oil Corporation (NNOC), which, in 1977, was restructured and renamed the Nigerian National Petroleum Corporation (NNPC). In 1971,

¹⁹ In 1967, the Igbo dominated Eastern Region, following the killing of Igbo and other easterners resident in the North in a pogrom, decided to secede from the federation. The federal government under northern leadership rejected this move and declared war on the East. After a bloody civil war lasting 30 months the Eastern Region was forced back into Nigeria. An estimated one million people lost their lives in the war, most to famine and disease.

Nigeria also joined the Organization of Petroleum Exporting Countries (OPEC). OPEC had, in its Resolution No. XVI.90, called for member countries to acquire 51 per cent of foreign equity interests and to participate more actively in all aspects of oil operations (Allen and Okeke-Uzodike 2010).

In 1972, the federal government introduced the Indigenization of Foreign Enterprises Decree on the basis of which it forced all foreign oil companies to start operating joint ventures with NNOC. In 1977, government equity participation was increased to 51 per cent. Beyond equity participation the NNPC plays a significant role in the downstream sector, discovering and allocating of oil and gas fields to producing companies, and in the local marketing of refined oil products and export of Nigeria's oil. It is significant to note that the Indigenisation Decree also included 'personnel indigenisation'. The decree required that, in line with the new equity structure, TOCs developed and implemented a time plan for recruitment, training and use of local manpower to replace expatriates. Against the backdrop of their substantially reduced equity holdings, the oil majors had no difficulties with personnel indigenisation because of its inherent advantages, not least the cheapness of local manpower relative to expatriates (Turner 1978; Omeje 2006).

In a number of ways, the indigenisation policy helped to foster the neo-patrimonial interests of the dominant federal elites within the oil industry. Among other things, it was apparently exploited by sections of the largest ethnic groups – the Yoruba, Igbo and Hausa – to dominate the personnel structure in the oil industry. However, the dominance of the ethnic majorities in the Nigerian oil industry remains a controversial subject as many scholars argue that the phenomenon is more apparent than real, not least because strategic decisions and high value technical aspects of the oil industry remain firmly controlled by the TOC headquarters in Europe and the US, often superseding and sidelining the interests of Nigerian ethnic majorities and minorities alike (Omeje 2006). Similarly, the indigenisation policy has encouraged the issue of oil exploration and production licences to a considerable number of members of the Nigerian elites, including retired military officers and well-connected businessmen; albeit most licensees act as fronts for, or operate as associates of, small-scale foreign investors (Omeje 2006). Given their ethnic minority status in Nigeria, the oil-bearing communities of the Niger Delta have been largely excluded from these rentier benefits (Omeje 2006).

Under the Land Use Act of 1978, ownership rights of all land and its mineral resources came to belong to the federal government. The federal state is legally empowered to expropriate land from local communities and private citizens for oil, industrial and large-scale agricultural purposes (Allen and Okeke-Uzodike 2010). This resulted in the alienation of oil-rich communities from their ancestral lands. The law on land ownership obviously runs counter to the interest of the indigenous communities in oil-producing areas that depend on environmental resources and the land for their livelihoods. The Ogoni people articulated this interest in a Bill of Rights, accusing the government and oil companies in different fora of stealing their wealth and destroying the environment (Allen and Okeke-Uzodike 2010; Saros 1990). Both the 1969 Petroleum Decree and the 1978 Land Use Act have been transferred to the 1999 constitution. This has regularly triggered protests in the Niger Delta where local leaders reject the 1999 constitution as a document effectively reducing their people to 'colonial' status.

2.1.3 Covert alliances and rolling elite bargains

Heightened political uncertainty due to the transition to civilian-electoral rule resulted in tougher competition over the appropriation of oil rents between a growing number of players – regardless of the fact that military and conservative elites had sought to keep the lid on the post-1999 political process. This had serious negative effects in the oil-bearing Niger Delta states and spurred the emergence of rolling, often covert alliances and bargains between

state and non-state, and legal and illegal/criminal actors in the Delta, and between them and some federal political elites. Ordinary citizens were excluded from these informal, behind-the-scenes processes.

Powerful militant and criminal groups emerged in the Niger Delta, taking the previously mostly peaceful struggle for 'resource control' to another, violent level.²⁰ Under a 'political' cover they targeted the operations of the oil companies and kidnapped the personnel of oil majors. But many of them also engaged deeply in organised criminal activities, setting up protection and kidnapping rackets as well as large-scale 'bunkering' and illegal crude refining rings. While the oil majors further fanned the violence by employing youth groups to act as private security guards of the oil infrastructure, so did the federal government by deploying the JTF to the Delta. By 2007, the region had turned into a battleground where the brutally operating federal security forces were hard-pressed, and ultimately unsuccessful, to put down what came to be known as the Niger Delta 'petro-insurgency' (Obari 2007).

The crisis in the Delta had a significant impact on the post-1999 political settlement. The previous strategic alliance between the central government in Abuja and the TOCs came under stress as new actors with the capacity to influence the political process and severely disrupt crude production appeared on the scene, claiming a seat at the table of the oil 'poker'. In effect, it became more difficult for federal and national elites, including the godfathers, to protect their vested interests in the oil industry as well as the interests of the oil majors. They were compelled to negotiate and bargain with a growing number of powerful militant, youth and criminal groups in the Delta (Joab-Peterside et al. 2011:87).²¹ What is more, there is some preliminary evidence that political elites at the federal and Niger Delta state level expanded their participation in, and benefit from, large-scale bunkering (Joab-Peterside no date: 21).²²

The 2009 amnesty for the leaders of the most notorious militant groups in the Delta, many of whom had connections to bunkering and other organised criminal activities, reflects the strategy of Nigeria's federal elites and the oil companies to regain control of the situation by 'paying off' militant leaders and co-opting them into the post-1999 political settlement through the DDR programme and multi-million dollar contracts in the oil industry. While the amnesty resulted in a drop in violence in the Delta, it did not address the conflict's root causes. Socioeconomic grievances, such as rampant youth unemployment, persist, and the level of criminal activity has increased (Berema 2011).

Following the amnesty, reintegrated militant leaders have transformed into new, quiet power brokers who the PDP governors went to for support during the 2011 elections. In return for their help they have received lucrative government contracts and in some cases direct cash payments. A number of these militants have established a pressure group called Oporoza House which negotiates directly with the federal government for contract work, including surveillance and protection of the oil pipelines in the Delta (Ebiri 2012). Some of them have also continued to be involved in criminal alliances with members of the local, state and federal political elites. In effect, most of the militant leaders still command considerable respect and influence in the Delta creeks. The government of President Jonathan, an Ijaw from the Niger Delta himself, recognises this and has quietly moved to buy the loyalty and support of these leaders.

²⁰ See chapter 3 below.

²¹ It is noteworthy that in several towns and villages in the Niger Delta youth leaders began to displace elderly traditional kings and chiefs in dealings with the oil companies in matters of compensation where there is an oil spill. This 'revolution' has occurred with considerable violence. Recognising this reality, the oil companies sometimes engage these youth leaders to protect their installations in return for cash payments.

²² Author's interviews, INGO representatives, Abuja, 18 and 21 February 2013. According to one account, 500,000 people depend on the illegal oil economy in four of the main oil-bearing states, Rivers, Delta, Bayelsa and Ondo (Southernfield Development Partners/latitude Development Solutions 2012).

A symbiotic relationship has developed between state elites at federal and regional levels and community and former militant leaders, particularly since Jonathan took office. The president has relied on non-state elites, especially community leaders in the Niger Delta and the demobilised militant commanders, to maintain the peace in the region and ensure that the oil companies continue extracting oil undisturbed. It is an informal relationship, held in place by the fact that the president is Ijaw. The widely held view in the Niger Delta is that he deserves to be supported in office because Muslim northerners, who are still hostile to the president, accuse him of usurping a position that should have been held by a fellow northerner.²³

This relationship is, however, vertical, radiating from the presidency to the Delta communities. The latter do not have any levers to hold Jonathan to account and deliver much needed public goods and services to the Delta communities. An example of this vertical relationship is the federal government's award of multi-million dollar contracts to protect oil pipelines in the Niger Delta to former militant leaders, completely by-passing the ordinary people. State governors in the region also replicate this by maintaining a cosy, if informal, relationship with these militant leaders, ensuring that their financial needs are taken care of. Between them, the PDP-led federal government in Abuja and state governors in the Delta have ensured that the horizontal relationships in a healthy and functioning democracy that promotes transparency and accountability in the conduct of public affairs are displaced in favour of patrimonial networks that benefit only the powerful and favoured in the Niger Delta region (Ebiri 2012).

²³ Contributions by Niger Delta NGO and academic participants in the policy validation workshop organised by the author in Abuja, 20 February 2013.

3 Accounts of violence in the Niger Delta

Violence in the Niger Delta escalated during the first decade of civilian-electoral rule despite attempts by successive governments to resolve it through a mixture of military and development interventions as well as political concessions.²⁴ The escalation was not steady and gradual, but peaked and troughed. It also built on a history of mostly state-driven violence in the Niger Delta in the 1990s. The tactics and strategies of the state and non-state actors involved in the violence, including the oil majors, and their motivations have undergone significant change since 1999. It is therefore important to recognise that violence in the Niger Delta has been of a fluid and dynamic kind, involving changing constellations of actors and interests over time.²⁵

Tying in with the greed and grievance theories of intra-state armed conflict, the literature on the Delta broadly falls within one of three camps: those that suggest the violence is driven by grievances – the injustice that the people of the Delta have historically suffered at the hands of the federal government, the military and the foreign oil companies (Ukiwo 2007; Adekunle 2009; Ebienfa 2011); greed – the political economy argument that sees violence in the Delta as purely opportunistic, driven by personal desire for political and economic gain (Omeje 2006); or a more holistic combination of the two (Watts 2008; Watts et al. 2004; Ukiwo 2007:589).

According to Uwafiokun Idemudia (2009), neither greed nor grievance can completely explain the violence in the Delta because the conflict has passed through several stages in which there have been various motivations, pressures and influences, such as the role of oil, which have transformed the conflict. While the conflict may have emerged as an expression of grievances, and does to some extent maintain that as an ideology, there have been stages where other motivations, including those which are based on short-term economic benefits, became paramount (Ballentine and Sherman 2003; Idemudia 2009; Nwajiaku-Dahou 2012; Watts et al. 2004; Zartman 2005). Using William Zartman's theory of phases of intra-state armed conflicts (Zartman 2005), and the various motivations such as *need* (grievances from political repression and economic deprivation), *creed* (feelings of selective discrimination and deprivation based on beliefs and identity) and *greed* (private or factional ambitions of private gains), Idemudia breaks the conflict in the Delta down into the following phases (Zartman 2005).

Need (1960s–1980s), or the root of the conflict which focuses on the structural deficiencies in Nigeria that prompted the mobilisation for protest; *creed* (1990s), or grassroots mobilisation around grievances based on the notion of 'poverty in plenty'; and *greed* (2000–present), as reflected in the rise of organised criminal activities. Within those three phases, other researchers have identified various trends. These include the spike in violence around the 2003 and 2007 elections; the emergence of powerful armed militant groups such as the Movement for the Emancipation of the Niger Delta (MEND) in the mid-2000s and the push for full resource control rather than simply an increase in the transfers of oil revenues from the federal government to the Delta; the peak in acts of sabotage, oil bunkering and kidnapping in the years leading up to the 2009 presidential amnesty and DDR programme, which appear to have dampened some of the violence (International Crisis Group 2007; Hazen and Horner 2007). Resources provided by TOCs to Niger Delta communities, including local development funds and 'payments' to young men to act as security contractors guarding oil pipelines and other infrastructure, also prompted struggles among those communities to secure rents (Omeje 2006).

²⁴ On the policy responses to violence in the Niger Delta see chapter 4 below.

²⁵ Contributions by participants from the Niger Delta in the policy validation workshop organised by the author in Abuja on 20 February 2013.

Although this study focuses on violence since the 1999 transition to civilian-electoral rule, it does recognise that events which transpired before that time influenced the way in which the conflict progressed. Importantly, the hanging of Ken Saro Wiwa along with eight other MOSOP leaders by the government in 1995, economic decline, the social impact of structural adjustment programmes and the government's heavy-handed response to protests in the Delta led to a hardening of attitudes even ahead of the 1999 vote (Hazen and Horner 2007; Arowosegbe 2009). Obi defines the violence in the Delta as both 'an expression of frustration as the failure of peaceful protest to lead to any meaningful change in the plight of the people, and anger at the impunity with which the region is being plundered by the state oil alliance, with the complicity of some local elites and violent youth' (Obi 2008). Similarly, Kimiedi I. Ebiefa refers to the grievances of the Delta populations 'legitimate' and describes the resistance movement as a 'refuge for those who have been alienated by the federal government/corporate alliance over oil and seek to expose their exploitative agenda' (Ebiefa 2011).

3.1 Emergence of armed militancy

Up until the 1990s, claims by Niger Delta groups for a greater share of oil revenues, socioeconomic development and reparation for serious environmental damage caused by the oil majors were largely non-violent. In 1998, ahead of the country's return to civilian-electoral rule, military dictator Sani Abacha invited youth to the capital to participate in a conference. It gave the Ijaw youth of the Delta their first glimpse of a city that had been built on the riches of their communities. Not long after the conference, the Ijaw released the Kaiama declaration, which declared all land and oil to belong to the oil-producing communities and gave the oil majors until the end of the year to leave the region. It also led to the birth of the Ijaw Youth Council (IYC), which declared its mandate as seeking resource control through non-violent struggle. The federal government responded by declaring a state of emergency and flooding the region with troops to protect oil installations. According to Ebiefa this was the watershed, when the struggle turned from Saro-Wiwa's non-violent resistance to armed rebellion (Ebiefa 2011).

While the 1999 constitution included a provision to increase the transfer of oil revenues from the federal government back to the oil producing communities from three per cent to 13 per cent, this failed to make a difference in development as it only enriched regional elites (Adekunle 2009; Ebiefa 2011; Obi 2008). For example, Rivers state received US\$100 million per month for the first eight months of 2006 due to high oil prices (Hazen and Horner 2007). Yet in terms of socioeconomic development and the wellbeing of communities there has been no tangible and visible progress. Much of the Delta remains underdeveloped with poor roads, little infrastructure and the country's highest rate of youth unemployment and perception of poverty (Omotola 2007). Many traditional livelihoods, such as fishing and farming, have been destroyed due to constant oil spills and pollution (Agbu 2005; Owaswa 1999 cited in Omotola 2007).²⁶

As will be discussed in detail below, the state has, at times, offered concessions to the Delta such as establishing the Nigeria Delta Development Commission (NDDC) in 2000 and offering amnesties to Niger Delta militants. But its primary response has been one of repression, hardening attitudes in the Delta towards violent action as the only recourse to the state's intransigence (Ukiwo 2011). In 1999, just six months after he was sworn in as president, Obasanjo ordered the razing of the village of Odi, which was allegedly harbouring militants who had killed several policemen (Courson 2009). The hardening of attitudes meant that by 2002–2003 there were several militant groups, many linked to secret societies and

²⁶ Between 1976 and 1999, about 3,000 oil-spill incidents were reported by oil companies in Nigeria, involving more than two million barrels of oil.

gangs, which shifted the resistant tactics from non-violent protests to occupations, sabotage and vandalism of oil facilities, assault on military targets, and the tactical use of kidnapping, including for ransom (Watts 2008).²⁷ In the process, these militant groups started to occupy the political space in the Delta that previously had been used by social organisations and movements engaged in the non-violent struggle for 'resource control' and halting environmental degradation caused by the operations of the oil majors.

Two key players in the early stage of the militancy were Ateke Tom and Alhaji Mujahid Dokubo-Asari. Tom was leader of the Icelanders, which in 2003 changed its name to the Niger Delta Vigilante Movement (NDVM). Asari was initially head of the IYC, and his influence with the largest minority in the Delta meant he was much sought after by politicians looking to win regional elections. In 1999 and 2003, Rivers state Governor Peter Odili employed both Asari and Tom to ensure a win for the ruling PDP. He supplied them with weapons and financial support. But after the 2003 election, Asari fell out with Odili and this pitted his Niger Delta People's Volunteer Force (NDPVF) against Tom's NDVM leading to armed clashes between the two sides during 2003 and 2004. At the peak of the violence between the two militant groups in early 2004, most of it taking place in Port Harcourt, dozens were killed and thousands displaced from their homes.

President Obasanjo intervened and offered an amnesty to the members of both groups. But the DDR programme broke down when the combatants found that there were no jobs or training and that they could buy more sophisticated weapons with the money they were paid for handing over their old ones. The arrest of Asari in 2005 led to a greater splintering of armed groups. Many of the members of the initial two groups joined other groups, such as the Movement for the Emancipation of the Niger Delta (MEND), Martyrs' Brigade, Outlaws, Niger Delta Strike Force, the Coalition for Militant Action (COMA), and the Joint Revolutionary Council (JRC).²⁸ While Asari and Tom were no longer as influential as before, they still commanded respect among the armed militants. Compounding the insecurity was the role of the oil majors, which started to pay local youth and militant groups to protect their facilities (Nwajiaku-Dahou 2012).

Another turning point for militancy was the 2005 National Constitutional Reform Conference, during which Delta delegates' demands to increase the oil dividend for oil producing communities from 13 to 25 per cent and a further 25 per cent by 2010, were rejected, fuelling further frustration (Obi 2008). The conference was inaugurated by President Obasanjo following strident calls from the southern part of the country, particularly from the Niger Delta and the Yoruba south west, for the political restructuring of Nigeria to make for a proper and functioning federation. All six geopolitical regions sent representatives. At the conference Delta leaders demanded that the 13 per cent derivation be doubled, but this demand was blocked by northern delegates. Niger Delta leaders walked out, leading to the failure of the conference.

The conference failed because each zone came with a set of demands it did not intend to negotiate. The spirit of give and take, so vital for the success of constitutional talks of this nature, was lacking and the conference collapsed because the participants could not arrive at a consensus on important matters. The far northern parts of the country comprising the north west and north east zones were reluctant to participate in the conference in the first place and could be said to be the main beneficiaries of its failure. For these two zones, a situation where the conference would reduce the amount of oil derived revenue allocated to them and increasing the share of the Niger Delta region was an anathema.

²⁷ For more detail on criminal activities in the Delta see section 3.3 below.

²⁸ The JRC was formed in 2006 as an operational umbrella for MEND, COMA, the Martyrs' Brigade and NDPVF (Coventry Cathedral 2009: p. 128; Hazen and Horner 2007: 81).

It is significant that MEND emerged a few months after the unsuccessful conference (Obari 2005). MEND, an umbrella of various militant groups, pledged to intensify the fight for resource control, though it is debated whether this was more rhetoric than genuine political motivation (Asuni 2009). This ushered in a new era of violence as MEND escalated the level of violence in the struggle, targeting oil installations and oil workers in an attempt to cripple the Nigerian economy. Many MEND commanders were heavily involved in illegal oil bunkering, although they appeared to distance themselves from kidnappings of oil workers for profit, rather than for media limelight (Obi 2008:15; Courson 2009:641; Francis et al. 2011).

Violence reached a peak in 2009, when the group Government Ekpemupolo alias Tom Polo, a MEND commander in Delta state, seized two oil tankers and took fifteen Nigerians and four Filipinos hostage. At the time, Polo had a large following loosely affiliated with the Federated Niger Delta Ijaw Communities, a community based organisation which brokered 'security' contracts with the oil firms and local politicians. The JTF raided Polo's camp and freed some of the hostages. MEND threatened all-out war, but the JTF military pushed ahead with its assault. In the end the militants accepted Yar'Adua's amnesty programme. According to Victor Egwemi, this amnesty was Yar'Adua's last ditch solution to resolving the crisis in the Delta, as both institutional-developmental and military interventions had failed (Egwemi 2010).

Militancy also spilled over into Cameroon, following the transfer of the Bakassi peninsula from Nigeria to Cameroon on the basis of a 2002 ruling by the International Court of Justice (ICJ). Between November 2007 and January 2009, at least eight attacks were reported in Cameroon and Equatorial Guinea, some by criminal gangs and others by organisations such as the Niger Delta Defence and Security Council (NDDSC), which opposes the transfer of the territory and demands Bakassi be granted sovereignty or some form of self-governance.²⁹ The International Crisis Group suggests the militants fighting Cameroon for self autonomy gained some support from militants and criminal elements in the Delta, although MEND has denied any involvement (International Crisis Group 2009).

Among the contributing factors to violence and insecurity in the Niger Delta is a thriving secondary arms market (Francis et al. 2011). Small arms and light weapons of growing sophistication started appearing in 1998–99, when many arms may have been brought into the country by Nigerian peacekeeping forces after their assignments with ECOMOG23 in Liberia and Sierra Leone. In 2003 and 2004, as militants became financially independent of political patrons through oil bunkering, tankers that transported oil would also bring in illegal and more powerful weapons, such as AK-47s, pump-action shot guns, rocket-propelled grenade launchers and others (Davis 2009). Estimates of the number of weapons in Nigeria vary from between one million to three million. Most are illegal because of strict laws on gun ownership (Hazen and Horner 2007).

²⁹ On 12 November 2007, armed men in seven boats attacked a Cameroon military vessel killing 21 troops, wounding six and carrying away a large number of arms and ammunition. Cameroonian soldiers later attacked the assailants and killed one. Nigeria and Cameroon investigated jointly, but the results have never been made public. Although no group claimed responsibility, a Cameroon military source said the attack was carried out by 'a suspected militant group from Nigeria'. On 9 June 2008, an armed group killed the Kombo Abedimo divisional officer and several Cameroonian soldiers. Twelve days later, unknown attackers fired rocket-propelled grenades at a Cameroon security post, killing one soldier and wounding another seriously. In the aftermath, Cameroon's Defence Minister Remy Ze Meka said the attacks were carried out by armed bands that had fled from Nigeria, and his country was now involved in 'a new type of conflict with an invisible enemy'. Further attacks occurred throughout July 2008. In October, gunmen fired on Cameroonian soldiers at Jabane, a fishing port in a boundary area between Cameroon and Nigeria. One gunman was reported killed and others wounded, the rest fled towards Nigerian waters. Later that month, gunmen in speedboats kidnapped and threatened to kill ten crew members – seven French nationals, two Cameroonians and a Tunisian – from an oil vessel, the Bourbon Sagitta, off Cameroon's coast. They were freed after weeks. Violent encounters between assailants in speedboats and Cameroon security forces continued late into the year, and on 17 February 2009, the troubles spread further. Equatorial Guinea said gunmen, apparently Delta militants, operating in motor boats, attacked the presidential palace in Malabo but were repelled, with at least one attacker shot dead. MEND denied involvement (International Crisis Group 2009: pp. 5–6).

Weapons have become increasingly sophisticated and powerful over the past decade. A survey estimates that the availability of AK-47s in the Niger Delta has increased five-fold since 2005, and that 'militant groups likely possess remote-detonation and night-vision equipment, as well as antiaircraft missiles'. It also reports that 'the five best trained groups have a combined fighting force of 10,000 men and access to 25,000 weapons'. Individuals and groups are importing and purchasing small arms as a result of the failure of the security forces to provide security and, in some cases, due to the draw of rich profits from the use of small arms in illegal activities (Hazen and Horner 2007). In other cases, they are given weapons by politicians, by members of the military who are sympathetic to their cause or through attacks on security forces in the Delta (Hazen and Horner 2007:37).

3.2 Violence linked to elections

In the aftermath of the 1999 transition to civilian-electoral rule 'the opening up of political space for the expression of pent-up grievances [...] brought a further spate of conflicts' and electoral politics turned into violent zero sum contests between patronage based political parties (Ibeanu and Luckham 2006; Ebo 2006 cited in Hazen and Horner 2007). 'Everyone, including [the UK's Department for International Development], underestimated the challenge Nigeria confronted in 1999. [...] There was an assumption that the transition from military to civilian rule would create the necessary political space, and political will, for significant pro-poor reform' (DFID 2004 cited in Hazen and Horner 2007). But instead, the elections only deepened divisions, and increased the level of violence, as politicians armed unemployed youth, criminal gangs and other groups joined in a bid to gain political control, and therefore access to oil revenues (Hazen and Horner 2007).

Many in the Delta saw how public office holders were able to use oil revenues for their own private enrichment which led to greater jockeying for power in 2003 and more election-related violence. In both elections, politicians in the Niger Delta and other states paid youths to attack their political opponents and intimidate voters to have them support a particular party. While not exclusively, the ruling PDP was especially responsible for these practices (Human Rights Watch 2003:25 cited in Francis et al. 2011). Before and during the 2003 elections, hundreds of people were killed throughout Nigeria, many of them in the Niger Delta. Bands of political thugs fought for physical control of localities. In Nembe (Bassambri), a town in Bayelsa state, clashes allegedly resulted in at least a dozen fatalities. At least ten people were killed in a clash between PDP and All Nigeria Peoples Party (ANPP) supporters in Oporoma, headquarters of Bayelsa's Southern Ijaw local government (International Crisis Group 2006).

After the polls, politicians tended to abandon the youth who they had supplied with weapons and cash. With no jobs but with access to weapons, many set up their own guns-for-hire groups, and carried out attacks on oil companies and kidnapping of oil workers for profit. Militancy thrived in the region because guns meant more than votes during elections (Ebienfa 2011:637; Courson 2009). The weapons held by those in the 2003 election were still in their possession in 2007, but with the groups more powerful than before. In the interim, many had also resorted to other forms of criminality (Hazen and Horner 2007). As violence was entrenched in the Delta it became a 'hard currency' that was used by all actors to press their demands and achieve their own political and economic goals.³⁰

³⁰ Contributions by Niger Delta NGO and academic participants in the policy validation workshop organised by the author in Abuja, 20 February 2013.

3.3 The militants and organised crime

The jockeying for power and control of oil rents, the arming of youth and their lack of alternative livelihoods resulted in the emergence of a new layer of militancy in the Delta (Ebienfa 2011:637). Powerful groups at the federal and regional government levels, including politicians, retired military officers and ‘godfathers’, allied with local youth and militant organisations to take advantage of the chaotic situation to illegally appropriate oil revenues through bunkering and illegal oil refining.³¹ Organised crime increasingly penetrated Nigeria’s political system; political ends and criminal means became dangerously entwined (Francis et al. 2011:2). As Nuhu Ribadu, Nigeria’s former anti-corruption chief, put it, the state is ‘not even corruption. It is organised crime’ (The Economist 2007 cited in Courson 2009). At the same time, the claims by genuine ‘resource agitators’ who sought to achieve more control of the oil wealth for the benefit of the Niger Delta populations were hijacked by criminals seeking only profit, so that ‘every form of outsider came through the gates: cult leaders, political thugs, criminals, and self-centred individuals hiding under the cloak of resource agitators’ (Courson 2009:639-640). ‘They became preoccupied with benefiting themselves and their parochial interests and the focus of the struggle for the control of resources and self-determination became lost. It led to an ungodly mix of criminality and militancy, and included armed hostage taking’ (Ebienfa 2011:240).

This spike in criminality occurred between 2005 and 2009, following the emergence of MEND and its strategy of direct action against the oil industry. In that period, attacks on oil installations and oil theft caused a daily loss of production of up to 65 per cent, though the average loss was about 25 per cent (Francis et al. 2011). The sabotage of oil pipelines in the Delta was initially related to dangerous, small-scale oil theft by groups who sold the crude for artisanal refining on the local market and also sought to pressure the oil majors into providing community development and compensation for environmental damages. Later it morphed into a lucrative large scale business involving Niger Delta militant groups, both to fund their insurgency but also purely for profit. There is mounting, though still preliminary, evidence that armed forces personnel and political elites at the local, regional and federal levels of government are involved in ‘bunkering’; and a World Bank report flags the issue of ‘informal excess lifting of crude oil at export terminals’ allegedly carried out by international oil companies (Gboyega et al. 2011:18–20).

According to data provided by the NNPC, total oil production in the Niger Delta was at 2.03 million barrels per day in 2002; after which it steadily rose to a peak of 2.52 million barrels per day in 2005. In 2008 it then dropped to a low of 2.11 million barrels per day and finally increased again to 2.45 million barrels per day in 2010. Production then fell slightly to 2.37 million barrels per day in 2011.³² The accuracy of these figures is difficult to verify as there are diverging views among oil sector experts as to the capacity of the Nigerian states for the physical measurement of the stocks and flows of oil.³³ This notwithstanding, the official figures reflect the trend in a decline in oil production due to the crisis in the Niger Delta in the period 2005–2009 that has been observed by independent analysts. According to the above-mentioned World Bank research report, it is estimated that Nigeria lost US\$8 billion in oil revenue in 2005, US\$16 billion in 2006, US\$19 billion in 2007 and US\$34 billion in 2008 due to foregone production (‘shut-ins’) and theft. The report estimates that in 2003 300,000 barrels were stolen each day and 320,000 barrels were not produced (shut-in). The estimated figures for the following years are 300,000/210,000 (2004); 250,000/160,000

³¹ Author’s interviews, INGO representatives, Abuja, 18 and 21 February 2013.

³² Nigerian historical oil production data provided to the author by a NNPC official in February 2013.

³³ A number of non-governmental informants consulted by the author held that there were no reliable metering systems in place at the wellheads, only at the export terminals. A NNPC official contested this view, stating that meters existed at the wellheads and the export terminals, but not along the pipelines. Author’s interviews with Nigerian NGO representative and National Defence College analyst, Abuja, 18 February 2013.

(2005); 100,000/600,000 (2006); 100,000/600,000 (2007); and 140,000/660,000 (2008) (Gboyega et al. 2011:19). The trend in oil theft reflected in these figures roughly matches the estimates provided by Legaloil.com, a project of the Nigerian CLEEN foundation (Davis 2008).

Kidnappings in the Delta have been occurring in the past ten to fifteen years, if not longer. Yet the full extent of this unlawful activity remains in the dark. The available figures are incomplete and they only include reported abductions (International Crisis Group 2009). There can be no doubt, however, that this is a very serious problem in the Niger Delta. Hostages are taken for two principal reasons: exerting political pressure on foreign oil companies and the Nigerian government, and seeking criminal economic gain. Militant and youth groups in the Delta have used kidnapping of foreign oil workers to raise the profile of their cause; kidnap ransoms have been used to fund arms purchases. However, kidnapping proved so lucrative that some groups started resorting to kidnapping purely for economic gain.

Abductions of oil workers, mainly expatriates, increased in the period 2005–2009 (Francis et al. 2011: 59; Davis 2009).³⁴ There was a spike in kidnappings in 2006, prompting President Obasanjo to warn that force would be met with force. In August 2006, MEND declared an end to kidnappings, but a few months later abductions spiked again. Some observers have put the number of kidnappings at 300 people between January 2006 and February 2007 (Hazen and Horner 2007); while others have claimed that between 60 and 150 hostages were taken. The number of kidnappings increased significantly in early 2007, with almost daily hostage taking after the elections. Militants also changed tactics, kidnapping children and the elderly relatives of politicians, something which MEND distanced itself from (Hazen and Horner 2007). There is some preliminary evidence that following the 2009 presidential amnesty the rate of kidnapping in the Delta first dropped but then went up again as the reintegration component of the DDR programme failed to produce results.³⁵

Pirate activities have also been on the rise in the Delta and the Gulf of Benin. Many of the waterways in the region have become the dens of bandits and sea pirates. This is particularly so in Bayelsa and Delta states, as well as the River Nun, Forcados River and Tungbo Creek. Passenger and trading boats are attacked and occupants are robbed and sometimes killed or maimed. There were forty reported incidents of piracy in the Delta in 2008, according to the International Maritime Bureau; in the first three weeks of 2009 there were ten reported incidents. Among those was the boarding of an oil tanker carrying 4,000 tonnes of diesel by a militant group. It was the first such attack at sea (International Crisis Group 2009).

³⁴ While kidnappings of oil workers have taken place since the late 1990s, they shot up after the emergence of MEND. After most 'high profile' oil expatriates were removed, militants started to target high profile local and national elites. Less high profile local elites and their families have also been targets of criminal gangs, especially during elections.

³⁵ Contributions by participants in the policy validation workshop organised by the author in Abuja, 20 February 2013; International Crisis Group 2009.

4 Policy responses to violence in the Niger Delta

Since 1999, the federal government's responses to the crisis and violence in the Niger Delta have oscillated between measures aimed at furthering the region's development and a tough security strategy geared at uprooting armed militants and protecting the oil infrastructure. These measures have been combined with presidential amnesty offers to militants and some initiatives to reform Nigeria's oil sector, foremost through the Nigeria Extractive Industries Transparency Initiative (NEITI) and the Petroleum Industry Bill (PIB). Overall the responses to the violence have suffered from weak design and feeble implementation. They have also lacked coherence and, in the case of the security measures, have had highly adverse consequences for the human rights situation in the Niger Delta. While the oil majors have contributed to socioeconomic development initiatives, the available evidence suggests that their impact has been limited, even negative. In some cases, inappropriately designed corporate social responsibility (CSR) activities and direct cash payments to community leaders ended up fanning violent conflict between communities and different ethnic groups in the Delta (Watts 2008).

4.1 Developing the Niger Delta versus repressing armed militancy

In 2000, the Obasanjo administration established the Niger Delta Development Commission (NDDC). The Commission's mandate is to offer a lasting solution to the socioeconomic difficulties of the Niger Delta (Omotola 2007). However, right from the start it suffered from a lack of ownership (Newsom 2011).³⁶ It was also speculated that its creation was rushed through in response to outrage over the razing of the village of Odi in 1999 (Transnational Crisis Project 2010). Obasanjo also commissioned a review of the security approach to the Delta, which was conducted in 2002 by the then chief of army staff, Lt. Gen. Alexander Ogomudia. The report recommended, among other things, an immediate 'upward review of the minimum 13 per cent derivation to not less than 50 per cent' and repeal of some laws, including the Land Use Act of 1978 and the Petroleum Act of 1969, which it said 'dispossess[es] oil producing areas of their land'. Yet the federal government ignored the recommendations (Adeyeri 2012; International Crisis Group 2007). In 2005, the government initiated the National Constitutional Reform Conference in which the Delta delegates argued for a phased increase in the transfer of oil revenues to the oil-bearing states to 50 per cent. Their demands were refused.

While the NDDC has implemented a large number of infrastructure projects over the past twelve years (some 2,000 by 2010), it has suffered from a lack of local ownership as local stakeholders have not been involved in any meaningful way in the design or location of projects. Despite the formal existence of oversight mechanisms, corruption and a lack of transparency and oversight have also been major problems. Three NDDC directors were sacked for corruption and there have been recurrent concerns about fictitious projects and contracts being granted to family members or used to prop up patronage networks (Higgins 2009; Adeyeri 2012; International Crisis Group 2007; Omotola 2007). Citizens in the Delta have little trust or respect for the NDDC.³⁷ A spokesman for MEND noted: 'NDDC is a channel for further looting of the meagre sums allocated to developing the Niger Delta. Most

³⁶ People in the Delta complained they had not been consulted about the bill and refused to accept the NDDC as an organisation acting on their behalf.

³⁷ Contributions from Niger Delta NGO and civil society representatives in the policy validation workshop organised by the author in Abuja, 20 February 2013.

of the contracts go [to] outsiders [...] The so called representatives in these bodies are toothless stooges whose duties are to append signatures to agreements made in their absence' (International Crisis Group 2007). Federal government funding of the NDDC has been inadequate, and foreign oil companies initially balked at paying three per cent of their budget into the commission, as did Nigeria's states (International Crisis Group 2007).³⁸ Hence, under President Obasanjo the development impact in the Niger Delta of the NDDC was negligible.³⁹ The region saw a deterioration of the human development situation and violence against the state, oil companies and between ethnic communities increased sharply (Omotola 2007).

When the violence in the Delta intensified due to the elections and inter-community conflicts over community development funds and direct cash payments to local leaders from transnational oil companies, the federal government deployed the JTF (Courson 2009: 639–640). It was instructed to adopt a 'shoot to kill' policy as the oilfields descended into chaos (Watts 2008). The JTF has been accused of exacerbating the violence, due to its brutal reaction to non-violent protests against oil spills, overzealous razing of villages allegedly tied to militant groups, moonlighting as private security contractors for oil companies and ties with militant groups and illegal oil bunkering (International Crisis Group 2006).⁴⁰ The JTF failed to stem the tide of violence because its acts only incensed people in the Delta and hardened their attitudes. While the state also sought to frame the violence as terrorism, in an attempt to legitimise its brutal repression of protesters in the eyes of the international community (Courson 2009: 20–21; Chiluba 2011), Obasanjo tried twice to reach a settlement with the Niger Delta militants. Both in 2005 and 2006 these attempts failed because Obasanjo merely sought to get the militants to decommission their weapons without bothering to address their fundamental grievances.

Under President Yar'Adua the NDDC was revitalised. The federal government committed US\$566 million in 2009, more than double the previous administration's contributions. In 2010, the NDDC was expected to receive US\$1.6 billion (Higgins 2009; Newsom 2011). Corruption and lack of capacity continued to dog the NDDC, but it has increasingly been drawn into donor and oil major development strategies, with a focus on capacity building (Idemudia 2009).⁴¹ This notwithstanding, the people of the Delta still perceive it in a negative light. They are far from convinced that the commission is acting on their behalf and feel that often the projects are 'imposed' on them. In 2008, Yar'Adua responded to the failure of both the NDDC and the repression of the militants and youth groups in the region by establishing the Niger Delta Technical Committee (NDTC). Drawn from across the nine oil-producing states as well as from federal agencies, its members were to look once again into the issues of sustainable development in the Delta. Its recommendations included: an increase of transfers of oil revenues from the federal government to the oil-producing states to 25 per cent; complete initial steps to support a DDR process for militant youths within six months; and improve operational integrity of security forces and the police in the Niger Delta to a level that would assure communities and businesses that security and safety would be upheld. The second part laid out broad themes and roles for stakeholders in a regional transformation agenda running through to 2020. The third part recommended the creation of institutions and mechanisms to guide the implementation of the measures contained in the report. This included the significant establishment of a Niger Delta Special Infrastructural Development Fund, a Niger Delta Futures Trust Fund and a Community Trust Fund Scheme (International Crisis Group 2009).

³⁸ In illustration, in 2006 NDDC was owed US\$ 1.6 billion from the federal government and US\$ 300 million from the oil majors.

³⁹ Contribution by participants in the policy validation workshop organised by the author in Abuja, 20 February 2013.

⁴⁰ JTF units are also known to be involved in oil bunkering and other criminal activities.

⁴¹ Shell has been working with the NDDC to build capacity and oversight so that the NDDC can resume the duties of development in the region.

Although the NDTC submitted a report to government in November 2008, nothing much was heard afterwards. Rather, the federal administration switched to setting up a Ministry of Niger Delta Affairs. The creation of the ministry drew mostly negative reactions from other parts of the federation. In the Delta it was perceived by some as a significant sign of federal government commitment to the crisis in the region while others urged caution arguing that it might end up becoming an avenue for corrupt enrichment and political patronage rather than serving the interests of the people of the region (Francis et al. 2011).

4.2 The 2009 amnesty and the ‘afterthought’ DDR programme

While the creation of the ministry reflected a fresh attempt to deal more holistically with the violence and crisis in the Delta, the federal government authorised a large scale military offensive against MEND in April 2009. On 13 May 2009, as the president was developing proposals for an amnesty and a DDR programme, the JTF launched a robust attack on the headquarters of the prominent MEND leader, Tom Polo. Unconfirmed reports allege that significant numbers of non-combatants were killed in this attack (Molloy 2011). Under pressure from the international community to end the conflict and thereby ensure the free flow of oil, the government then responded with an offer of amnesty.

The 2009 amnesty has been deemed a success, as within months more than 20,000 combatants laid down their weapons for jobs and to join a reintegration programme (Francis et al. 2011).⁴² However, critics have warned that unless the roots of the conflict, including the grievances of the Niger Delta population, are dealt with, the amnesty and the DDR programme will ultimately fail (Francis et al. 2011: 22). The federal government’s approach to DDR bears similarities to the practices employed by oil companies and state governments during the insurgency: paying militants off so they do not attack oil or state government institutions. The Bayelsa ‘cash for peace’ programme was most notable in this regard, with camp commanders being paid about US\$67,000 per month since 2005. The idea was to take the militants out of the security nexus, but instead it has only provided the camp commanders and former militant leaders with a more privileged position (Nwajiaku-Dahou 2012). It is thought that Yar’Adua also encouraged some of the militants to set up private companies so they could be given contracts for protecting oil companies and installations. As one Nigerian observer put it, the DDR programme has been an ‘afterthought programme’, as the principal goal of the federal government was to end the violence to safeguard the production of oil and not to reintegrate members of militant groups into civilian life and address their socioeconomic grievances.⁴³

According to a panel set up in January 2010 to review the reintegration aspect of the DDR programme, about 80 per cent of the budget had gone on payments to consultants and contractors, leaving just 20 per cent for the rehabilitation of ex-militants. It has also been observed that vast constituencies of people alienated by petro-business interests, but lacking the means of violent action, have been excluded from the post-amnesty deal. This includes, to a large extent, the Ogoni people, especially the youth who never participated in the armed struggle. The probability remains that these alienated youth can mobilise themselves into militant groups to fight the state (Oluwaniyi 2011).

To date, Nigeria has not created the necessary institutional structures with the capacity to develop, produce and implement coherent plans for the reintegration of ex-combatants into their communities, or for the development of social or economic capacity in those communities expected to receive them. There is no sign of a credible framework of proposals

⁴² A total of 26,358 ex-combatants (including nearly 1,000 women) have now joined the post-amnesty programme of transformation and reintegration, at a cost of \$660 million in 2011.

⁴³ Contribution by a Nigerian NGO representative in the policy validation workshop organised by the author in Abuja, 20 February 2013.

or a coherent operational plan and there is suspicion that the intention was to achieve short term conflict reduction to permit a stabilisation of oil production and reduce international pressure in the lead up to the 2011 elections. However, the period in question, mid-2009 to mid-2010, did reflect the short term benefit of a significant drop in violence (Molloy 2011). This notwithstanding, there appears to have been a renewal in violence, with an increase in kidnappings and a threat from MEND to resume their insurgency over the failure of proper compensation and amnesty pay-outs (Gbomo 2012).

4.3 NEITI and the Petroleum Industry Bill

The Nigeria Extractive Industries Transparency Initiative (NEITI) is mandated by law to promote transparency and accountability in the management of Nigeria's oil, gas and mining revenues. A major component of the ongoing anti-corruption reform in Nigeria, it is the national version of the Extractive Industries Transparency Initiative (EITI).⁴⁴

NEITI was inaugurated in February 2004 by President Obasanjo when he set up the National Stakeholders Working Group (NSWG) under the leadership of Obiageli Ezekwesili. The NSWG⁴⁵ oversees the activities of NEITI and is made up representatives of government, extractive companies and civil society. Among others, NEITI commissioned the first comprehensive audit⁴⁶ of Nigeria's petroleum industry for the period 1999–2004 and is working with various stakeholders to build national consensus on the need for extractive revenue transparency in Nigeria. There was a second audit for the year 2005 with the same scope, which has since been published, and the audits for the years 2006–2008 and 2009–2011 were contracted out to private consultancies in 2010 and 2012, respectively.

In December 2004, a bill was introduced to the National Assembly to provide NEITI with a legal foundation. The NEITI bill was eventually passed and harmonised by the two chambers of the National Assembly and subsequently signed into law by President Obasanjo in May 2007. With this, Nigeria became the first EITI-implementing country with a statutory backing for its operations.⁴⁷

After the publication of the audit for the period 1999–2004, the Federal Executive Council⁴⁸ agreed on a set of priority actions to remedy some of the major problems that had been identified, such as collection of taxes and royalties, fiscal regime, revenue administration, lacking up-to-date metering systems (Gboyega et al. 2011: 18-20). The resulting Remediation Action Plan was subject to implementation by the Interministerial Task Team (IMTT), including representatives of relevant agencies (extractive industry companies, civil society, labour unions) as well as extractive industries experts. However, EITI implementation in Nigeria has been difficult because of bureaucratic delays, unresolved differences between the NEITI secretariat and National Stakeholder Working Group (NSWG) and lacking political leadership. Although NEITI was a good fit with the Yar'Adua–Jonathan administration's (2007–2011) stated objective of strengthening due process and the rule of law, as well as fighting corruption and promoting transparency, the government's support was limited.

⁴⁴ The Extractive Industries Transparency Initiative (EITI) was launched on the global stage in September 2002 by UK Prime Minister Tony Blair at the World Summit on Sustainable Development in Johannesburg, South Africa. In June 2003, at a conference in London, a Statement of Principles to increase transparency of payments and revenues in the extractive sector was agreed. These twelve EITI Principles centred on the need for transparent management of natural resources. The EITI process is supported financially and practically by a number of bilateral and multilateral donors. The EITI secretariat is located in Oslo and hosted by the government of Norway.

⁴⁵ <http://www.neiti.org.ng/sites/default/files/pdf>

⁴⁶ <http://www.neiti.org.ng/documents/neiti-audit-reports>

⁴⁷ <http://www.neiti.org.ng/pages/about-neiti>

⁴⁸ The president and ministers integrate the Federal Executive Council; the president serves as the chairman. The FEC is charged with initiating the policies and programmes of the federal government and ensuring that they are properly implemented.

In 2012, President Jonathan introduced the Petroleum Industry Bill (PIB), which includes among other things, a novel petroleum host community development fund. The bill was first discussed in 2007, and has been through many revisions since. It aims to replace all existing legislation on oil and gas sector issues and fundamentally revamp the institutional setup of Nigeria's oil sector. Among the most incisive reforms contained in the bill is the breakup of the powerful NNPC, changes to the fiscal regime of the oil sector and the introduction of a new community fund that 'shall be utilized for the development of the economic and social infrastructure of the communities within the petroleum producing area'.

The oil industry opposes the bill in its current form because it would create significant uncertainty for the industry by, for instance, not specifying in detail the new fiscal regime. The PIB has further been criticised because of its focus on infrastructure development and that it foresees that oil companies will be obligated to give up another 10 per cent of their monthly profits, effectively increasing tax on oil extraction from the current level of 85 per cent to 95 per cent. It also fails to explicitly recognise communities' rights to the benefits of the resources atop of which they live (Ojameruaye 2012). In light of these critiques, it is yet unclear whether the bill goes far enough to satisfy the demands of the population in the Niger Delta and what the prospects for its passage in the National Assembly are.

4.4 Transnational oil companies

Working in a cosy alliance with the federal military governments, most foreign oil companies operated in the Delta without paying much attention to their responsibilities and obligations *vis-a-vis* local communities. In the early 1990s, when faced with protest and social mobilisation due to large scale environmental degradation and abysmal levels of human and socioeconomic development in the Delta, they thought they could simply give things to communities: schools, clinics, bridges. This would buy them a social licence to operate. Yet Delta communities, who were not consulted about their needs, never saw these infrastructure projects as belonging to the community and some were deliberately targeted by militants and youth groups when violence picked up in the 2000s (Idemudia 2009; 2010; Davis 2009).

At that time, when it became clear that community assistance programmes were having no tangible impact on the levels of violence despite the large sums of money that were being spent, the oil majors began to move from community *assistance* to community *development* (Idemudia 2009; 2010). On paper, this shift meant greater community participation in the design and implementation of projects funded by the oil companies. In reality, most community development programmes have continued to be driven by a 'business case' logic and have not resulted in a change in the way companies extract oil (Idemudia 2010).⁴⁹

While these programmes did lead to some improvements in the living conditions in the Delta, this was mostly so because the baseline was very low to start with. But together with large direct cash payments to community leaders made by the oil majors to keep the peace their biggest impact on the volatile situation in the Delta was ironically a deepening of violence brought on by a culture of expectation and inter-ethnic conflict over community development resources (Idemudia 2009; 2010). The concept of 'host communities' used by oil companies to delimit the scope of their social responsibility and their selection of communities to benefit from the development and CSR programmes was responsible for the Nembe war in 2005 and the intercommunity conflict between Emouha and Ogbakiri communities in Rivers state. It also contributed to triggering the Warri wars, as the Ijaw and Itékiri ethnic groups moved

⁴⁹ The two constant complaints from citizens of the Delta are gas flaring and oil spills. For example, between 2000 and 2004 roughly 5,400 incidents of oil spills were officially recorded. Gas flaring has damaged the zinc roofing of houses, stunted crop yields and made rain water undrinkable, forcing community residents to replace house roofs more often and children travel further to fetch drinking water.

from fighting over political rents to oil rents (Idemudia 2010). The following sections present brief overviews of the community development and CSR activities of the three largest transnational oil companies in Nigeria: Shell, Exxon Mobil and Chevron.

Shell (Shell Petroleum Development Company of Nigeria, SPDC)

In 1997, SPDC moved away from community assistance to community development. Projects were to be determined by a participatory needs assessment, yet Shell still came across as the philanthropic benefactor, and its driving force was never development, but mitigating conflict. This type of development assistance created high expectations and more instability because it prompted conflict and competition between Niger Delta communities for development resources (Idemudia 2009). In 2003, SPDC changed again from *community development* to *sustainable community development* focused more on building partnerships with communities through Global Memorandums of Understanding (GMOUs). By this the oil company sought to mitigate violence it feared could be on the rise but also to reduce the amount of money it was spending. In 2002, SPDC spent US\$67 million on community development. After the establishment of GMOUs in 2007, this was reduced to US\$30.8 million (Idemudia 2009).

Some of SPDC's conflict mitigation activities have been met with criticism. For instance, the 'sit at home allowance' for youth has been critiqued for fuelling violence by putting cash into the hands of young unemployed men and rewarding negative rather than positive behaviour (Oluwu 2010). The selection of host communities – referred to as 'operational communities' – has also exacerbated inter-communal conflict over land and water tenure. GMOUs have not always helped to address these problems. There have been issues in relation to the Gbarain-Ubie Integrated Oil and Gas project and the GMOU with Bayelsa state. GMOU communities said they were not consulted; and while the construction of the pipeline for the oil and gas project went ahead, the accompanying development projects stalled (Draper 2010).

Exxon Mobil (Mobile Producing Nigeria, MPN)

Corporate philanthropy and social investment were traditionally the main strategies employed by MPN to contribute to community development. MPN's efforts in this regard were in the areas of health care, education, road construction, electricity and water supply. However, in 2002, MPN claimed it shifted its focus in community assistance (CA) initiatives from providing social infrastructure to local capacity building and economic empowerment (Idemudia 2009). The shift in MPN's emphasis in its CA projects can be attributed to three main reasons. Firstly, the government now has the resources to build infrastructure through the establishment of NDDC to which MPN contributes over US\$18 million per year. Secondly, MPN does not have the resources or expertise to make development happen by itself; other organisations need to be enlisted to help. And thirdly, true Sustainable Community Development (SCD) is based on the creation of wealth within communities and not on the redistribution of income, assets or gifts. Real economic growth is based on private investment and individual initiative (Idemudia 2009).

MPN's new emphasis on capacity building and economic empowerment invariably made the forming of partnership imperative, and partnership the dominant strategy for managing issues of corporate-community relations. The Integrated Community Development Project (ICDP) is one of MPN's Programme Partnership. ICDP was initiated by the Akwa Ibom State Government (AKWSG) in April 2002, which launched the project with an endowment fund of US\$94,000. The United Nations Development Programme (UNDP)-Human Development Fund (HDF) pledged US\$125,430 and MPN donated US\$313,576 to the project. ICDP is based on a support agreement and memorandum of understanding signed by the various partners (AKWSG, MPN, UNDP-HDF) which stipulate the roles and responsibilities of each partner (Idemudia 2009). MPN provides funds and participates in selecting the beneficiary

communities. The Ministry of Economic Development, which is the representative of AKWSG, is responsible for project implementation, monitoring and evaluation. In addition, the ministry reports back to partners, while the community as a benefactor is consulted to ascertain its needs. Communities are also required as part of their contribution to donate land for the provision of social infrastructure and set up project management committees to ensure project sustainability and community ownership of projects.

However, given that most of MPN's partnerships are not community driven, as communities are often not involved as direct partners but more often as benefactors rather than active participants, MPN partnerships are thus largely top-down in nature. Failure to sufficiently involve the community in the design, implementation and monitoring of community development projects means MPN Community Development Partnership (CDP) initiatives often fail to reduce powerlessness and build channels for citizens in the host communities to voice their concerns; the impact of CDP initiatives on poverty reduction is therefore undercut (Idemudia 2009). Exxon Mobil's policy of building contacts in the communities by meeting only with a few chiefs and council leaders effectively limits community participation.

Chevron (Chevron Nigeria Limited, CNL)

Prior to the crisis in 2003, CNL's approach was to establish agreements with individual communities impacted by its operations, including homage payments to traditional leaders, work-for-cash and larger scale infrastructure projects that would benefit the entire community. However, funds usually ended up enriching community leaders. The lack of transparency over how much each community received fuelled inter-community conflict. In 2005, CNL decided to take a new approach. Instead of signing individual contracts with 'host communities' GMOUs would be established with clusters of communities. Each cluster would form a Regional Development Council (RDC) that would represent all communities within the cluster. Instead of 400 agreements with individual communities, CNL now has GMOUs with eight RDCs covering 425 communities in five states. Where previously the communities were considered beneficiaries, now they are seen as partners in socio-economic development. Communities are also incentivised through a 'peace bonus' of additional community development funds if CNL facilities remain free from sabotage and violence (Hoben et al. 2012).

The first GMOUs were signed for the period 2005–2008. Following this a review was undertaken, the GMOUs were renegotiated and new ones were signed for the period 2009–2011. A similar process took place in 2011; and most recently GMOUs have been signed for the period 2012–2015. The new relationship has resulted in a significant reduction in violence and community-sponsored attacks against the company's operations attributed in part to peace bonuses contained in the GMOUs. Stakeholders have reported reduced tensions between communities and ethnic groups in some areas, as well as overall reductions in violence (Hoben et al. 2012). However, there appears to be a lack of coordination between the GMOUS, the NDDC and state-level governments and their development commissions.

In 2010, CNL set up the Niger Delta Partnership Initiative (NDPI) with US\$50 million over five years as a way to 'promote and support multi-stakeholder programmes that address the needs of communities and foster increased donor assistance for community based organisations in the Niger Delta'.⁵⁰ It works with a variety of organisations, from local CSOs to bilateral and multilateral funders and federal institutions, such as the Ministry of Niger Delta Affairs. One of its stated goals is to 'provide conflict analysis, conflict resolution training, and peace-oriented social marketing programming both for stand-alone projects and as integral parts of other PIND programmes to manage conflicts in vulnerable

⁵⁰ NDPIF website: <http://ndpifoundation.org/programs-and-partners/>

communities.⁵¹ In 2011, USAID became the first international donor to contribute to the NDPI. Other donors include GIZ and the UNDP.

4.5 International donors

After the transition to civilian-electoral rule, international donors began returning to Nigeria. DFID set up a country office in 2001 and the European Commission (EC) resumed its aid around the same time. Apart from an EC micro projects programme, very little of the early aid was focused on the Delta and its oil-bearing municipalities and communities as donors were concerned about poor governance at the level of the state governments.

The US has emerged as the largest bilateral development assistance donor, with USAID allocating approx. US\$420 million a year, followed by UK's DFID (US\$300 million), Germany (US\$33 million) and Japan (US\$31 million). The World Bank is the largest multilateral donor (US\$841 million), followed by the EU (US\$74 million) and UN (US\$53 million).⁵² Yet the significance of international aid to Nigeria must not be overstated. World Bank data since 1999 show that official development assistance (ODA) to Nigeria has been below 0.6 per cent of the country's gross domestic product (GDP).⁵³ Until recently, many donor agencies concentrated their support on 'lead' or 'focus' states. In the Niger Delta only Cross River state has consistently met the governance and accountability criteria to qualify as such a 'lead state'. Donor aloofness has contributed to a sense of neglect felt by the Niger Delta population, though a plethora of NGOs and civil society groups have been active in the region. Many of them are funded by donors or foreign oil companies (Francis et al. 2011: 90–92).

In terms of conflict mitigation projects, USAID, DFID and UNDP appear to be the only ones with programmes where conflict mitigation is a primary goal. Other projects have more broadly economic development, good governance and poverty alleviation as goals. Yet until recently donor investment in the Niger Delta in governance and conflict initiatives has overall been very low (Newsom 2011). Most donors work through local NGOs and more recently are beginning to partner up with oil majors, such as Chevron, to fund community development foundations. There has also been some donor cooperation. For the programme period 2010–2013 the World Bank Group and DFID joined with USAID and the African Development Bank to prepare a joint Country Partnership Strategy for Nigeria. In distinction to earlier initiatives, the new partnership does not propose a common set of focus states, but rather suggests that 'need'— in addition to 'performance'— is a valid criterion for targeting assistance.

Annex 1 provides an overview of the interventions of the main international donors with respect to violence mitigation, conflict and risk management, good governance, youth unemployment and community development in the Niger Delta. It is noteworthy that in the past couple of years donors have become more active in the Niger Delta, focusing their efforts on the local level. This may be related to a drop in the levels of violence following the 2009 presidential amnesty for Niger Delta militants.

⁵¹ NDPIF website: <http://ndpifoundation.org/programs-and-partners/>

⁵² US\$ figures are for 2010–11. See OECD-DAC at <http://www.oecd.org/dac/stats/NGA.gif>; Amundsen 2010.

⁵³ See <http://datamarket.com/data/set/143d/net-oda-received-from-multilateral-donors-of-gdp#!display=line&ds=143d!g4j=h>

5 Policy implications: Towards a pro-development political settlement and integrated violence mitigation in the Niger Delta

Nigeria's post-1999 political settlement emerged from a military controlled transition to civilian-electoral rule that was geared at protecting the economic, political and judicial interests of the outgoing federal military rulers and their civilian allies. The pact also included the transnational oil companies. Since Nigeria's independence in 1960, they had reaped great benefit from a close alliance with a succession of military governments and had high stakes in maintaining their lucrative business operations in the country after the generals' formal departure from power.

What in the pre-1999 era had been an openly illegitimate, predatory and exclusionary political settlement centred on the appropriation of massive oil rents by a relatively small number of federal (military) elites and the oil majors began to morph into a seemingly broader one under the new political regime. While competition for elected office at the federal, regional and local levels of government increased, this happened mostly *within* the patronage-based PDP and its smaller off-shoots and not *between* several genuinely representative and issue-based political parties. Furthermore, with the exception of the 2011 polls, all elections since 1999 were surrounded by violence and rigged, especially those of 2003 and 2007. Almost fifteen years after the transition, the political opposition to the hegemonic PDP remains weak though more recently it has made some electoral inroads, particularly in the states of Nigeria's south west. With the Petroleum Industry Bill (PIB) still languishing in the National Assembly, the governance of Nigeria's vital oil industry and the distribution of oil rents remain essentially unchanged. The exception is a constitutionally mandated increase to 13 per cent of the transfer of oil revenues from the Federal Account to the oil-bearing Niger Delta states.

In the wake of the transition, and with their corporate brand image in shatters, the oil majors adopted a lower key public stance and evolved their corporate social responsibility activities in the Niger Delta states from community assistance to community development. Due to their unrivalled economic and technological clout they remain key players in Nigeria's oil-centred post-1999 settlement. At the same time, social mobilisation for resource control and environmental protection in the Delta was progressively sidelined and overtaken by a plethora of armed militant and criminal groups. These groups have variably served as paid thugs for politicians, mostly of the PDP, eager to win seats in the National Assembly and the Niger Delta governorships, which are highly coveted due to the increased transfers of oil revenues to the Delta states. They have also acted as private protection forces for the transnational oil companies; brokers between the oil majors and local community leaders; as well as oil thieves and kidnappers, often working hand-in-glove with members of the federal security forces and political elites. A number of the commanders of groups such as MEND and NDVF managed to amass large fortunes and have effectively been co-opted into Nigeria's post-1999 settlement. The 2009 presidential amnesty played an important role in this respect, as have the (covert) bargains between former militants and the Jonathan administration and the multi-million dollar contracts they have received from the government for the protection of oil infrastructure in the Delta.

This dynamic and fluid yet essentially conservative and predatory political settlement has significantly contributed to, first, spurring violence and large-scale criminal activity in the Niger Delta and, since 2009, pacifying the region through the co-option of militant leaders.

No foundations were laid for a lasting peace or effectively addressing the grievances of the Delta communities and involving them in any meaningful way in the process. As we have shown in this report, the nature and evolution of the settlement has not precluded attempts by the federal government and the oil majors to tackle the Delta's development challenges. However, these efforts have by and large not borne fruit due to a lack of incentives for, and political will on the part of, federal and regional elites to follow through with development programmes and governance improvements. All along, it has been easier for them to pay the militants off and default back to repressive security policies. Regardless of the serious human rights violations associated with largely ineffective military interventions in the Delta, the political cost involved in deploying the JTF has been smaller than it would have been had the PDP governments in power since 1999 seriously pursued reforming Nigeria's system of appropriating and distributing oil revenues. The oil majors, in turn, have benefited a great deal from the alliance with the federal government, and they continue to do so; beyond their enhanced community development initiatives they have not shown much interest in deeper reforms. This is reflected, for instance, in their opposition to the PIB.

The big challenges in the Niger Delta remain. By all accounts, the 'Niger Delta question', as it is often referred to in Nigeria, is not close to resolution. The region has temporarily been pacified and crude production has gone up again, though it still falls short of Nigeria's production potential (Newsom 2011). But the reintegration of former mid-ranking militant commanders and fighters is faltering and social unrest persists due to high youth unemployment and poverty; large-scale, organised criminal activity continues. Violence could quickly re-erupt and send the Delta back to where it was before 2009 if no remedying action is taken by the Nigerian authorities and their international partners.

Looking forward, it is crucial to recognise that Nigeria is not a failed state, despite pervasive corruption, criminality and mismanagement in the public sector. Yet it is a polity underpinned by a political settlement that seriously constrains democratic politics, legitimate and effective governance and pro-development reform – in the Niger Delta and also other parts of the country. For decades, oil and the appropriation of oil rents by domestic and international elites, particularly the oil majors, have shaped this settlement. There have been numerous political and social reform initiatives and push-back from pro-democracy, human rights and social grassroots organisations and movements in the Delta and elsewhere; even from sectors within the federal state and some regional governments.⁵⁴ But thus far these groups have been unable to influence and change elite interests and incentives in any significant way. They have been sidelined or victimised by a network of powerful state and non-state groups that appear determined to uphold the existing settlement and have shown to be patently prepared to use unlawful and violent means to achieve their goals.

The analysis presented in this report indicates that addressing the Niger Delta question – and the political instability, pervasive poverty, environmental degradation, human rights violations and political and criminal violence it entails – requires profound changes in the way Nigeria's elites relate to, and interact with, their own country and fellow citizens. Given the prominence of oil in the country's political economy, the aim should be to harness natural resource wealth for the benefit of the majority and not the few, whose ranks have recently been swelled by former militant commanders who learned that violence pays. In this setting governance is of the essence. We define 'governance' as processes of exercising public authority through the making of collectively binding rules and the effective provision of public

⁵⁴ For instance, in 2011 President Jonathan signed an amendment to the Act that set up the Nigerian National Human Rights Commission. The Commission is now empowered to institute any civil action on any matter it deems fit and to publish reports on the state of human rights promotion and protections. Further, in 2012 Nigeria's former Executive Chairman of the Economic and Financial Crimes Commission Nuhu Ribadu led the elaboration of a detailed and incisive report by the Petroleum Revenue Special Task Force set up by President Jonathan. Although the draft report was leaked and its potentially major impact on the oil industry thereby pre-empted, it helped spotlight some of the major problems of corruption and waste in the Nigerian oil economy.

goods and services by state and non-state actors. Reforming and strengthening governance at the local, regional and federal levels is paramount to address socioeconomic grievances, criminality, corruption and violence in the Niger Delta and beyond.

Our emphasis on the importance of governance reform questions the conventional assumption that it is the exclusionary nature of a political settlement that contributes to violence as contending elites, including leaders of social movements and popular sectors, take to violent action to press their inclusion in the settlement. According to this view, a more inclusive or 'inclusive enough' political settlement, as DFID calls it, reduces the risk of elites seeking recourse to violence as they are included in political and economic decision-making processes (DFID 2010). Yet the case of the Niger Delta shows that 'inclusivity' on its own is a weak indicator for determining whether a political settlement is violence-prone or not. The 2009 presidential amnesty and the 2011 election of Goodluck Jonathan, an Ijaw from the Delta, resulted in expanding the existing settlement through the cooptation of 'new', contending militant elites who had pressed their inclusion by militarily targeting the country's vital oil industry. Beyond contributing to the fragile and temporary pacification of the Delta, this process has not prompted any tangible changes in the way the federal and regional governments administer and distribute the country's natural resource wealth and address socioeconomic grievances, poverty, criminality and violence in the Delta and other parts of the country.

In this vein, it is important to ask *how* a political settlement is expanded to include additional social groups; *who* is included and *why*; and *what does the expansion of the settlement mean* in terms of reducing the risk of violence through improved governance and public policies that are capable of addressing socioeconomic grievances and other drivers of violence. On the basis of this analysis we suggest a strategy that focuses on the inclusion of important democratic, pro-development and non-violent 'counter-elites', particularly from the Niger Delta, in Nigeria's post-1999 political settlement. In our view, this requires significant and coordinated governance reforms at the local, regional and federal levels. Without such reforms it is unlikely that the Delta and the country will be able to overcome violence or the risk of it. On the other hand, if tangible results could be achieved in the oil-bearing region in the medium term, Nigeria would be well positioned to start addressing also the increasingly serious problem of violence in other parts of the country, especially the violence associated with Boko Haram in the North.

Outside leverage for governance reforms in Nigeria is limited. Issues of sovereignty and vested interests in the country's oil industry have led domestic political elites to resist international donor assistance on many occasions in the past (Newsom 2011). Further, while the oil majors have evolved their engagement with communities in the Delta and are nowadays allocating significant amounts to community development, their business rationale obviously continues to focus on profit-making and not governance reform and the inclusion of hitherto excluded sectors in the country's decision making processes and political settlement.⁵⁵ Hence, the reform initiative needs to be taken by Nigerians themselves. Outside actors can and should support certain political processes but need to make sure that they do not complicate matters further.

Among civil society organisations in the Niger Delta there is a strong view that top-down and militarised approaches to development, conflict resolution and violence mitigation in the region have been counter-productive or outright failures.⁵⁶ Strengthening accountability mechanisms at the local and regional levels are perceived to be crucial to improve service delivery and reduce corruption and the massive patronage economy that underpins the

⁵⁵ Contribution by a representative of a transnational oil company at the policy validation workshop organised by the author in Abuja, 20 February 2013.

⁵⁶ Contributions by participants in the policy validation workshop organised by the author in Abuja, 20 February 2013.

dominance of political elites in and outside of the Delta (Newsom 2011). At the same time, there is awareness that without first boosting accountability, elections will continue to prompt political violence and slow economic development, particularly if the patronage-based political parties are not reformed and if they refrain from strengthening internal democratic structures and process like primaries (Newsom 2011).⁵⁷ Further, judicial impunity is seen as major problem; profound reforms of Nigeria's ailing justice system are required to rein in corruption and (state-sponsored) criminality.⁵⁸ The 2009 amnesty and the DDR programme are perceived as federal government measures to placate and co-opt the most powerful militant leaders without contributing to building lasting peace and furthering development in the Niger Delta. It is especially resented that once those militant leaders received the benefits for laying down their arms they dissociated themselves from the non-violent, political struggle against corruption and public waste and mismanagement in the regional governments.⁵⁹

On the basis of this analysis, the following macro areas for policy action to advance violence mitigation in the Niger Delta can be identified:

- Strengthening accountability and mechanisms of redress at the local through to the federal levels of government and governance.
- Building the capacity of Niger Delta civil society, community and social organisations and movements to participate in decision-making processes related to local and regional development and oil production.
- Linking the reintegration of demobilised militants into economic and social life to local development efforts in the Niger Delta, with a particular focus on job creation and vocational training for youth.
- Democratising Nigeria's political parties, especially the PDP, to move away from patronage-based and godfather politics; and strengthening the electoral process.
- Strengthening Nigeria's justice system to reduce judicial impunity, corruption, human rights violations by state security forces and (state-sponsored) criminality, such as massive oil theft and illegal oil lifting.

These are huge tasks for any country and they clearly are for Nigeria. However, if the country and its international partners, including the transnational oil companies, fail to think big and adopt a comprehensive and necessarily longer term strategy to address serious governance problems that affect the situation in the Niger Delta there is a real risk that the region will see the re-emergence of large scale violence.

On a positive note, if Nigeria were to make progress on the governance front this would not only reduce the risk of violence in the Delta flaring up again but also contribute to changing the intrinsically violence prone nature of the post-1999 political settlement. This time the inclusion of non-violent elites would not come about through the co-optation of powerful actors that are using violence and unlawful means to further their own economic and political

⁵⁷ Contributions by participants in the policy validation workshop organised by the author in Abuja, 20 February 2013; author's interview with Nigerian NGO representative, Abuja, 19 February 2013.

⁵⁸ Contributions by participants in the policy validation workshop organised by the author in Abuja, 20 February 2013.

⁵⁹ Contributions by participants in the policy validation workshop organised by the author in Abuja, 20 February 2013. Arguably, the militant leaders had already dissociated themselves from the political and social struggle for 'resource control' and development in the Delta years before the 2009 amnesty entered into effect. This has been part of the problem of the conflict in the Delta: armed and criminal actors from the region have used violence in the pursuit of their own, particular economic and political goals and by doing so have occupied the political space that previously was used by non-violent social organisations and movements, such as MOSOP. This has severely limited the chances for a peaceful and lasting solution of the conflict in the Niger Delta.

goals, but through the strengthened democratic process and progressively more accountable and legitimate governance.

The international donor community should help Nigeria build a pro-development political settlement. It can do this by offering its good offices as a facilitator and supporter of political and policy dialogue between Nigerians, increasing development assistance in the identified policy areas, and reducing the negative fall-out of the oil majors' interests and operations in the country.

Annex I: Main international donor programmes for governance strengthening and violence mitigation in the Niger Delta

Table 1

Donor Organisation	Programmes		
DFID	Strengthening Transparency and Accountability in the Niger Delta (STAND project)	Developing Good Governance in Niger Delta, 2008–2013	Nigeria Stability and Reconciliation Fund
	In the Niger Delta, DFID has pursued several strands of activity: the STAND project, which works through NGOs to build the capacity of communities to hold local governments accountable; Developing Good Governance in the Niger Delta and various small projects including support to the National Orientation Agency for youth training and work with ActionAid to establish a conflict early-warning system in the Delta region. More recently, DFID is channelling funds through the Stability and Reconciliation programme for Nigeria.	The project is seeking to build the capacity of six Local Government Areas (LGAs) in Bayelsa, Rivers and Delta states to deliver needs-driven services and to support civil society to hold LGAs to account. Lead implementing partner is Living Earth Nigeria Foundation, which works with two other organisations, Academic Associate PeaceWorks (AAPW) and Institute of Human Rights and Humanitarian Law. A mid-term review of the project found it had enhanced communication between local government and communities, with a more participatory development approach. CSOs were more empowered to challenge the effectiveness of LGAs through a good governance forum and 'accountability corps'. The good governance forum is a	The five-year programme, which began in 2012, is a partnership with the British Council in Nigeria, International Alert and Social Development Direct. It aims to help manage conflict non-violently in several states across Nigeria, including three in the Delta (Rivers, Bayelsa, Delta). ⁶⁰ There are 4 main outputs: 1. Broader social participation in, and oversight of, conflict management mechanisms at federal, state and local levels. 2. Reduction of grievances in target areas around economic opportunities and distribution of resources. 3. Increased and more influential

⁶⁰ It is worth noting that Bayelsa, Rivers and Delta states have been donors' 'lead states' in the Niger Delta as they have more effective governance structures than the other states in the region.

		town hall meeting between LGAs and CSOs to discuss rights, roles and obligations. The Accountability Corps are youth of both sexes who follow up on project delivery. The review found that CSOs were now able to monitor the use of development funds and that there was an improved openness and trust between LGAs and CSOs, engendering peace and harmony (Bedford and Oluwasuji 2011).	participation of women and girls in institutions and initiatives relevant to peacebuilding, with reduction of violence against women. 4. Key decision-makers and opinion formers engaged with the project have influence on stability and reconciliation. No review of the programme is as yet available.
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Table 2

Donor Organisation	Programme
USAID	Conflict Abatement through Local Mitigation (CALM)
	Focuses on five focal states in Nigeria; Rivers, Delta, Plateau, Kaduna, Kano. CALM was an experiment for USAID in Nigeria as it had not carried out such direct conflict mitigation and management programmes before and was in the early stages of revamping its conflict mitigation programmes. The Nigeria programme began in 2007.
	Some notable achievements included the setting up of peace clubs in every secondary school in Plateau state and the expansion of peace clubs from senior to junior secondary in parts of Rivers state and the replication of youth groups across the targeted states. A mid-term review found the youth groups in Rivers state to be a promising innovation that could help to bring about a sustainable peace culture in the state. The youth groups mediated disputes; and an early warning system set up by club's members prevented the school from being attacked by militant youth. Members of the club see themselves as change agents and have gone back into their communities to act as ambassadors of peaceful resolution of conflict. It also resulted in the setting up of the Wakirika United Peace Group which worked with elders to demobilise militant youths. This led to the Ogoni, Wakirika and Andoni Youth Association – youth from communities previously at odds with each other. Some of the members of the group are former militants who are now peace ambassadors (LaPin et al. 2009).
	In April 2010, the US and Nigeria formally inaugurated a Bi-National Commission that provides a framework for mutual diplomatic and development efforts under four working groups. The Niger Delta and Regional Security Cooperation working group expects to support plans to provide tangible development and economic opportunity to the people of the region as well as augment partnership on regional security. The first meeting of the Niger Delta working group took place in September 2010 (Francis et al. 2011).

Table 3:

Donor Organisation	Programme
European Commission	<p>In 2010, the EC approved €478m grant for Nigeria, including €200m for an EU-Niger Delta support programme with the overall objective of mitigating conflict by 'addressing the main causes of unrest and violence – bad governance, youth unemployment and poor delivery of basic services'.⁶¹</p> <p>Examples for key activities include:</p> <ul style="list-style-type: none">• Employment for youth in road maintenance and refuse collection.• Grants to technical and vocational colleges.• Support, including training, for improving public management systems.• Various support measures for improving access to safe, adequate and sustainable water, sanitation and hygiene. <p>The remainder of the grant will go towards federal, state and local governance reform, anti-corruption, justice sector support, fighting drugs and organised crime, water supply and sanitation sector reform.⁶²</p>

⁶¹ 'European Union Helps Nigeria to Consolidate Peace in the Niger Delta and Ensure Better Governance and Improved Service Delivery', Press Statement European Commission, 2 December 2012. Available at: http://ec.europa.eu/commission_2010-2014/piebalgs/headlines/news/2012/02/20120203_en.htm

⁶² *Ibid.*

Table 4

Donor Organisation	Programme
<p>UNDP</p>	<p>The (2009–2012) country programme for Nigeria has four parts, including a sustainability and risk management programme (SRMP), which includes ‘conflict prevention, management and peace building’. SRMP is about protection and development of the people and natural resources, with a focus on the environment, gender and the Niger Delta (Bedford and Oluwasuji 2011).</p> <p>The United Nations Industrial Development Organization (UNIDO) is responsible for implementing the UNDP Youth Empowerment Program (YEP) for job training and development in Warri in Delta State. The three-year programme which started in 2008 is funded by Shell and based on the idea that skills training and employment for youth are viable solutions to militancy. YEP is appropriately positioned to pave the way towards the reintegration of ex-combatants as well as to develop skills in non-militant youth. YEP also provides an opportunity to support the Nigerian government’s ongoing demobilisation, disarmament, reorientation, and reintegration (DDRR) programmes under the current Amnesty (Francis et al. 2011). There are no official reviews of this project.</p> <p>UNDP has also pledged US\$25 million to the Integrated Development Community Programme, set up in 2002 as a partnership between the Akwa Ibom state government and Exxon Mobil. Exxon Mobil contributes US\$50 million to the project, which is mostly a micro-credit scheme to boost small-scale entrepreneurs in 14 communities in Akwa Ibom state. Communities participate by donating land to projects like a communal rice farming plant. Projects include a farm school, technical training and economic empowerment. It also provides some infrastructure development such as tap water (Idemudia 2009).</p> <p>Idemudia (2010) found that the Exxon Mobil projects had minimal impact on development in Akwa Ibom, mostly because the years of neglect meant community demands far outweighed what was being supplied. Also, investment has been uneven and was not driven by needs but by corporate logic. Much of the projects took place in areas where Mobil had a head office or where a member of staff lived. The company used the partnership as a ‘business tool’ rather than a development tool. It has failed to reach the poorest of the poor or to empower them by giving them any voice in design or location of projects, and company executives would only meet with the elite when discussing needs, reaffirming existing power structures. There has also been no change in Exxon Mobil’s business operations, with gas flaring and oil spills happening with impunity. Exxon Mobil has even appealed the US\$10 million it has been ordered to pay three southern communities as compensation for oil spills (Idemudia 2010).</p>

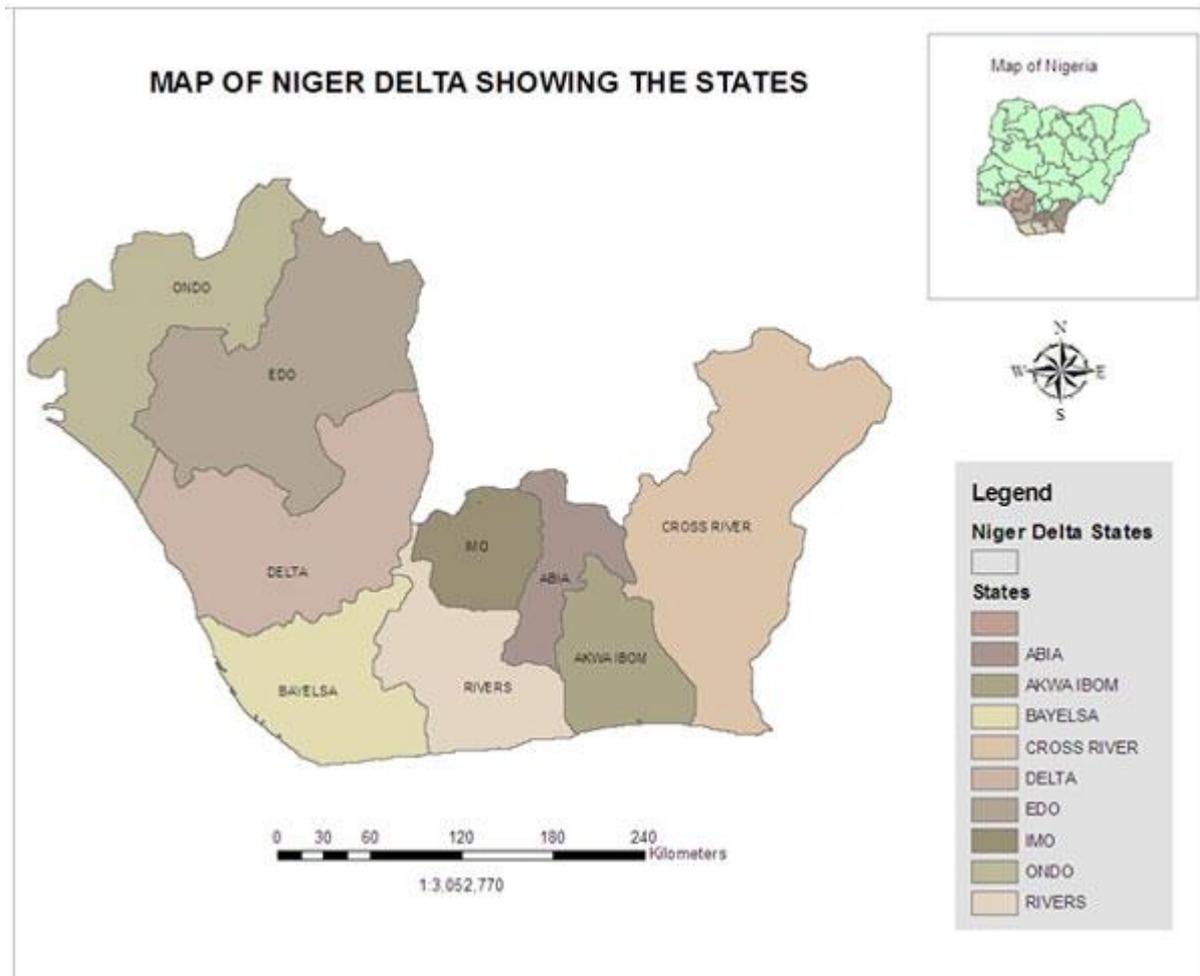
Annex 2: Map of Nigeria showing 36 states



Source: Mapsof.net⁶³

⁶³ Reproduced under Creative Commons from <http://mapsof.net/map/nigeria-states-map>

Annex 3: Map of the Niger Delta States



Source: Robinson Tombari Sibe (with permission)⁶⁴

⁶⁴ Map produced by Robinson Tombari Sibe for his article published by GIS Development <http://www.gisdevelopment.net/application/health/overview/Challenges-of-Mapping-Applications-in-Health-and-Academic-Research-in-the-underdeveloped-World.htm> (GIS Development is now Geospatial World www.geospatialworld.net)

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