

## **GAS FLARING: ASSAULTING COMMUNITIES, JEOPARDIZING THE WORLD**

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The world has a fever. Some fevers are serious, and must be treated right away to avoid the death of the patient. Others can be allowed to run their course. The fever our planet is suffering—global warming or, more accurately, climate change--cannot be allowed to run its course. To do so would be to allow the global transformation of this planet, with even greater inequity than now exists between North and South, rich and poor, frail and strong.<sup>1</sup>

### **A brief History of Gas Flaring in Nigeria**

Gas flaring has been a contentious issue in Nigeria right from the beginning of commercial exploitation of crude oil in the country. The gas that is flared in the oil fields of the Niger Delta is called associated gas because it comes out of the earth along with the target crude oil and is separated from the crude so as to make that commodity useful. The separated gas could be handled in a number of ways. First it could be harnessed for use as liquefied natural gas. Secondly it could be re-injected into the earth where it came from. Thirdly it could be vented or flared. In Nigeria over 50% of the gas associated with crude oil extracted is flared. This act has been considered reprehensible because of its impacts, its wastefulness and its continuous and routine manner. Gas flaring is a sad metaphor for a profligate nation that eats her chickens and the eggs and yet expects more eggs in future.

The question that we can ask at this juncture is whether the unacceptability of this act has only recently been realized. The answer is this act of impunity was recognized as objectionable right from colonial days. We see an admission of this in archival documents from the pre-independence days. In fact in 1958 the Secretary of State for the colonies was asked whether they would not be blamed for wastage of energy and resources through gas being flared in the Niger Delta. This was certainly an issue in those early days of crude in Nigeria. We see that this nagging issue did not end with casual pre-independence queries when we consider the rather patronizing 1963 confidential communication from the British Trade Commissioner to the UK Foreign Office<sup>2</sup>:

“Shell/BP’s need to continue, probably indefinitely, to flare off a very large proportion of the associated gas they produce will no doubt give rise to a certain amount of difficulty with Nigerian politicians, who will probably be among the last people in the world to realise that it is sometimes desirable not to exploit a country’s natural

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<sup>1</sup> Wysham, Daphne, *The World Has a Fever* (New York: Speech given to This Day Forum in New York, Sept. 24, 2007)

<sup>2</sup> Quoted in ERA/CJP, *Gas Flaring in Nigeria: A Human Rights, Environmental and Economic Monstrosity*, Amsterdam, June 2005. This booklet can be found at both [www.climatelaw.org](http://www.climatelaw.org) and at [www.eration.org](http://www.eration.org)

resources and who, being unable to avoid seeing the many gas flares around the oilfields, will tend to accuse Shell/BP of conspicuous waste of Nigeria's 'wealth'. It will be interesting to see the extent to which the oil companies feel it necessary to meet these criticisms by spending money on uneconomic methods of using gas."

"In the longer run, Shell/BP is going to have to consider very carefully how it should explain publicly the large outflow of capital that is likely to take place towards the end of the decade... it will no doubt come as something of a shock to Nigerians when they find that the company is remitting large sums of money to Europe. The company will have to counter the criticisms which will very probably be made to the effect that the company is 'exploiting' Nigeria by stressing the very large contribution it is making to Nigeria's export earnings."

From the above quote, it is clear that the oil corporations have been engaged in this action for at least half a century now. The British Trade Commissioner may have insulted the intelligence or emphasised the naivety of Nigerian politicians when he stated that ***they would be the last in the world to realize that it is sometimes not desirable to exploit a country's natural resources*** when weighed in the scale of harm attending such exploitation. And today, the fact of the huge outflows of capital from the Niger Delta through a lack of transparency, thievery and internal collaborations, we are still being reminded that large sums accrue to the nation through the oil and gas sector. Can we deny that **Nigeria has been earning on aggregate a tidy sum of about \$20 billion annually from oil revenues over the years?** Yet, this argument about huge revenues do not answer the irresponsibility of corporations and governments who are Joint Venture partners and continue to flare gas in Nigeria through their unholy alliances of denial of impacts on the ground. The 50 years old script of pacification by underhand play requires urgent critical political, environmental and socio-economic examination and replacement.

It was not until the 1979 Associated Gas Reinjection Act that routine gas flaring was finally outlawed in Nigeria. Section 3 of the Act set 1984 as the deadline after which companies could only flare gas if they have field(s)-specific, lawfully issued, ministerial certificates.

From research, 168 billion cubic meters of natural gas is flared yearly worldwide. It is equivalent to 25% of gas consumption in the USA and 30% of EU gas consumption. The flares pump 400 million tons of CO<sub>2</sub> annually into the atmosphere. 13% of the gas flared in the world comes from Nigeria alone and stands at about 23 billion cubic meters per year. This quantity is enough to meet Nigeria's energy needs and leave a healthy balance for export.

There are over 100 flare sites still emitting a toxic cocktail of chemicals into the atmosphere in the Niger Delta. Through this obnoxious act the country

has lost about \$72 billion in revenues for the period 1970-2006 or about \$2.5 billion annually.<sup>3</sup> All these go up in smoke yearly, leaving death and destruction in its path.

**The politics of gas flaring has seen the dates for ending gas flares being shifted as it suits the corporations and the government.** They are the players as well as the umpires and can freely shift the goalposts as they please. The latest shift of deadline was announced by President Umaru Yar'Adua at an International Gas Stakeholders Forum held in Abuja in November 2007, about a month to the end of a subsisting deadline. During the president's speech he simply moved the deadline for gas flaring from January 2008 to December 2008<sup>4</sup> despite the clamour of Nigerians and citizens of the world that gas flaring should be stopped at the close of 2007. There were indeed a lot of noises late 2007 and early 2008 about how gas flaring would be ended in Nigeria and in the mix of official voices policy incoherence was very apparent.<sup>5</sup> The government also set up of the so-called ad hoc committee to halt gas flaring. This committee facilitated by the World Bank Global Gas Flaring Reduction Partnership (GGFR) has turned out to be little more than hot air. None of the official moves made in this regard has gained the confidence of community actors who are justifiably fed up with mere rhetorics.

People generally conceive of a gas flare as a huge orange flame at the top of a high stack. In the Niger Delta this picture is not always so. **Some of the flares are at ground level, and some are not only at ground level, they point menacingly at communities belching heat and smoke from their inefficient infernos.** These horizontal flares constitute peculiar hazards as their heat and toxins are more or less at ground level. They spare neither the vegetation nor any life form in their path. Including humans.

Another troubling fact is that some of these flares are right within residential areas in communities. The gas flare in Rumuekpe community in River State, for instance, is located about 250 meters from inhabited houses in the community.

### **Government Wavering**

Government's staggering on the gas flare issue commenced in **1969**. That was when the first major move was made by the Nigerian state to halt gas flaring in the country. At that time the General Yakubu Gowon ordered that

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<sup>3</sup> ERA Fact Sheet on Gas Flaring, December 2008

<sup>4</sup> The Guardian, Editorial: *Gas flaring, end of a moving target?* Tuesday January 15, 2008. [http://www.guardiannewsngr.com/editorial\\_opinion/article01//indexn2.html?pdate=150108&ptitle=Gas%20flaring,%20end%20of%20a%20moving%20target?](http://www.guardiannewsngr.com/editorial_opinion/article01//indexn2.html?pdate=150108&ptitle=Gas%20flaring,%20end%20of%20a%20moving%20target?)

<sup>5</sup> A cursory review of Nigerian newspaper reports on this issue in November and December 2007 clearly reveals this. Deadlines were announced and threats issued without a clear thread of coherence.

corporations should set up infrastructure to utilise associated gas within five years of their commencement of operations. When the oil companies paid scant attention to this order the government then moved the goal post to **1979** but could not enforce this new deadline before it was overthrown in 1975. The Associated Gas Re-Injection Act Number 99 of 1979 required that oil corporations operating in Nigeria should produce detailed plans for gas utilization as well as guarantee zero flares by **January 1, 1984**. The only way by which they could continue flaring after that date would be by the express permission of the responsible minister on a case-by-case basis.

Since these deadlines are never respected, government has resorted to shifting them according to the pleasure of the corporations through executive orders embedded in speeches/remarks and without any backing by law.

It was in response to local and international pressure that the Federal Government once more pledged to halt gas flares in Nigeria and set **January 1, 2008** as the flares out. This was not to be because by December 17, 2007 a fresh shift was announced with a new target date of **December 31, 2008**. After that announcement there has been a lot of muddling that renders it virtually impossible to know what target date the government is pursuing. This is why Nigerians believe that the Senate is on the right track when they embarked on the drafting of a Bill to end illegal gas flaring by December 31, 2008. An enactment of such a law is the only measure by which Nigerians can say that there is a modicum of the rule of law with regard to gas flaring in Nigeria. Otherwise, it is clear that the acclaimed rule of law claims of the government may well be nothing beyond political posturing.

### **Corporate Reluctance**

We need to take a brief look at how some of the key players in the industry have been responding to calls to end gas flares. Shell estimated that an additional investment of \$1.85 billion (about N247.9 billion) would be required to complete some projects that would enable it achieve zero flare level by the end of 2009. A **Shell** boss made a statement in 2005 that "The construction of these facilities will only be completed by end 2009, which means that gas flaring from the relevant flowstations will not be eliminated until end 2009. On the commissioning of these facilities we will cover 95 per cent of all associated gas produced"<sup>6</sup>

Shell in its Sustainability Report 2006 however asserted that they would end routine gas flaring everywhere in the world in 2008 except in the Niger Delta.

We will continue our efforts to end continuous flaring at upstream locations, other than Nigeria, by 2008. In Nigeria, the Shell Petroleum Development Company (SPDC) joint venture expects to end continuous flaring there as planned, during 2009.<sup>7</sup>

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<sup>6</sup> Statement made by Shell boss in Nigeria, Basil Omiyi, May 29, 2005

<sup>7</sup> Shell, Meeting the Energy Demand – The Shell Sustainability Report 2006, p14

They gave two reasons. The first reason given was that some of the locations are too inaccessible. And the second reason given was that the flares would only end in some locations by shutting down production. Being unable to see the wisdom in the colonial Trade Commissioner's memo that it may not always be in the interest of a people to exploit her natural resources, we are unable to consider that option of shutting down activities that are harmful to us in several ways as we shall see.

In Shell's Sustainability Report 2007 these two excuses for not ending gas flaring are dispensed with completely and a more convenient one has now been constructed: the oil fields are too violent.

**ExxonMobil** thinks that the realistic flares down will be end of 2010. The corporation's Area Manager in Nigeria, Ms Kim Bates, gave ExxonMobil's perspective in a talk on *Gaps in the Gas Development Chain*. The corporation claimed that the end of 2007 was not feasible because of the security situation in the Niger Delta, the pricing regime (probably for gas) and funding for infrastructure development.<sup>8</sup>

For Chevron, ending gas flaring in 2008 is not practical it would have dire economic consequences and would "defer income from 480 million barrels of oil between 2009 and 2012." Chevron's official, Charles Adeniyi, stated this while speaking on behalf of the oil industry at a public hearing on flaring held at the National Assembly in November 2007. The industry wants the deadline shifted to 2010, adding even this would depend on government action.<sup>9</sup>

### **Fines or Life**

Efforts have been made in the past to penalize oil corporations for flaring gas beyond set deadlines. These fines however have been so paltry that it is still cheaper for the corporations to *pay* the fines than to act to halt the obnoxious act. By the Associated Gas Reinjection Act **1979**, the fee charged for flaring was first fixed at **0.50 Naira per million cubic feet (mcf)** but was from **January 1998 this penalty was increased to 10 Naira per mcf**. The World Bank notes that, "in recent years oil companies in Nigeria have been charged a total of between 20 million and 50 million Naira (or US\$150,000-370,000) annually for flaring associated gas."<sup>10</sup> The report also called attention to a study by the Bureau of Public Enterprises of Nigeria that showed that the

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<sup>8</sup> Nwachukwu, Clara, *Gas flaring: Oil majors seek extension of deadline to 2010*, The Punch, Lagos, Wednesday 14 November 2007

<http://www.punchontheweb.com/Articl.aspx?theartic=Art2007111444296>

<sup>9</sup> Eboh Camillus, *Oil firms resist Nigerian fines for gas flaring* Tuesday December 4, 2007

<http://www.reuters.com/article/idUSL0486900120071204>

<sup>10</sup> GAS Global Gas Flaring Reduction Initiative: **Report No.3: Regulation of Associated Gas Flaring and Venting – a Global Overview and Lessons** (World Bank, March 2004), page 64.

country loses between US\$500 million and US\$2.5 billion to gas flaring each year.

The DPR announced that **from 1 January 2009 the penalty would be raised to \$3.5 for every 1000 cubic feet of gas flared**. At a public hearing held by the Senate in November 2008 on a proposed Gas Flare bill, the Senate President, David Mark noted that the proposed fine of \$3.50 per 1,000 standard cubic feet (scf) of gas flared is meager and would not be a deterrent to the companies which have continued their act with impunity.<sup>11</sup>

One question that remains is whether the government would enforce the December 31, 2008 deadline. Another issue that requires consideration is whether any amount of fines paid by the offending corporations could ever compensate for the lives being cut short by the polluting flares.

### **Externalised Costs**

Are there other reasons for gas flaring to persist in Nigeria besides the inability of the politicians to see that reckless exploitation of resources is not in the best interest of the nation? Could it be that vested interests in high and low places prefer business as usual as long as they receive personal benefits?

From our brief glimpse at the colonial and neo-colonial conspiracy to keep the gas flares ablaze in Nigeria, **someone has had to bear the costs in order to maintain business as usual**. This has mainly been possible through the externalisation of costs of pollution from the value chain. This externalisation conceals the costs of pollution so that they do not appear in the market price of the commodity. These externalised costs constitute profits or free benefits to the corporate producer. However, these costs do not disappear. They are imposed on poor and are the unacknowledged subsidies. They are uncompensated costs to communities and workers who suffer the loss of resources and health damaged by pollution and other forms of environmental degradation.<sup>12</sup>

The loss of fisheries, farmlands, fresh water sources and dispossession of land through instruments like the Land Use Act (1978) are simply externalised costs that have been conveniently kept out of the accounting books even though there are laws that ought to provide a remedy to this profligacy. Rather than devoting resources to halt the destruction of livelihoods of the poor, we note a strong political will and allocation of resources to enforce further dispossession.

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<sup>11</sup> Daniel, Alifa, *Gas flare fine meager says Mark*, The Guardian, Tuesday, November 25, 2008  
[http://www.nguardiannews.com/news/article03//indexn2\\_html?pdate=251108&ptitle=Gas%20flare%20fine%20meager,%20says%20Mark](http://www.nguardiannews.com/news/article03//indexn2_html?pdate=251108&ptitle=Gas%20flare%20fine%20meager,%20says%20Mark)

<sup>12</sup> Bond, Patrick and Rehana Dada, *Trouble in the Air, Global Warming in the Privatised Atmosphere*, Durban: Civil Society Reader, 2005

## Carbon Trade: A Lot of Hot Air

The oil corporations and the Nigerian state would love to eat their cake and to still have it. Proposals are being made whereby projects in which gas that was previously flared is converted into liquefied natural gas (or is used to produce electricity) would qualify for carbon credits. Through such an arrangement, the oil industry would be paid handsomely for halting or reducing actions, which were illegal in the first instance. And the Nigerian state is once more geared to collaborate in this game ostensibly to benefit from a pot being built through the enthronement of polluting emissions as a commodity.

Making profit out of every situation is the game of the oil and energy industry. They throw up new words and concepts in such quick succession that people tend to think that they must know what they are saying and so should be trusted. Much of the talk, rather than preferring real solutions to the energy/climate crisis confronting the world, have rather been postures taken to avoid confronting the challenge head-on, but to procrastinate and allow these same corporations to snatch huge sums for research and development while keeping the old machines and mode of production running all to the ends of squeezing out profits from their subsisting investments. This is why we hear of market mechanisms such as the Clean Development Mechanism (CDM) and carbon sequestration (or capture and storage) and most audaciously, clean coal. The *concept of clean coal* is a clear oxymoron that must have been cooked by a word merchant. The picture being given is that there is a technical fix or silver bullet for every situation.

Some other technological fixes suggested for tackling climate change include aspects of so-called geo-engineering, *which* work at large-scale intentional manipulation of the atmosphere, oceans and soils.<sup>13</sup> Proposals in this box include dumping sulphur particles in the upper atmosphere to reflect heat and cool the climate. Nothing is said about the possibility of this causing respiratory disease, harming the ozone layer, reducing rainfall and increasing drought. Another scheme is one known as ocean fertilization and this entails the dumping of iron fillings and urea into the ocean in order to boost the growth of plankton. Proponents hope to earn carbon credits from this bizarre plan because they suggest that the plankton would take up huge quantities of carbon. Fortunately a moratorium was placed on this experiment at the United Nations Convention on Biodiversity at the meeting of May 2008 because if allowed this would pose a grave threat to marine life and to human health and livelihoods of coastal communities.

The so-called carbon capture and storage solution has been shown to be too little, too late and too costly, unsafe and ineffective. Scientists have seen that carbon stored in cavities made in rock or in geological sites could have

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<sup>13</sup> Thomas Jim and Fitzgerald, Paul, *Technofixes: climate solution or corporate scam?*, New Internationalist issue 414, August 2008.



inherent deficiencies as the buried carbon dioxide could dissolve some minerals in the rocks and escape.<sup>14</sup>

These expensive diversions go on because technology for climate change is firmly under political control for the benefit of the big industry through a thick smokescreen.

### **False solutions and the Lure of Liquefied Natural Gas (LNG)**

It is intriguing to note that whenever attempts are made to explain what is being done to halt gas flaring in Nigeria what we hear is about the huge investments being made in the LNG sector. Investment aimed at developing the LNG means a lack of investment in renewable energy. The LNG ties the economy to big business and renders us once again as mere consumers where we ought to be producers. The entire argument reaches a nauseating level when steps taken to reduce gas flaring are now seen as steps that ought to be rewarded through mechanisms in the fossil capitalist schema. This is why an oil corporation would want to claim carbon credits for setting up a gas plant that itself has a huge carbon foot print and is equally contributing to the stock of green house gases in the atmosphere. It could even be said that corporations who have been in default with regard to the obnoxious acts of gas flaring, instead of being punished for the infractions are being placed on the podium to be garlanded and awarded prizes for merely slowing down on the offending path.

### **Impacts of Gas Flaring**

The impacts of gas flaring are glaring and the Nigerian oil industry Joint Venture partners cannot claim to be ignorant of it.

- **Health**

The health impacts of air pollution spreads across a wide area, and those who rely on locally produced food - whether from their own production or bought at market - risk contamination.<sup>15</sup> At the global scale, the emissions of carbon dioxide and methane from Nigeria's flares make a substantial contribution to climate change and the costs will mainly fall most heavily on the poor. Gas flaring has been a huge bar against efforts at the human capital development of the Niger Delta through disease and related impacts.

Life expectancy in the Niger Delta is markedly lower than what obtains elsewhere in Nigeria. It stands at about 40 years on the average. This is not surprising because of the toxic elements (including benzene) being released regularly into the atmosphere. Diseases related to gas flaring include asthma, bronchitis, cancers, blood disorders and skin diseases. Obviously **building a health centre in a village while poisoning the inhabitants is an evil joke of grotesque proportions.**

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<sup>14</sup> See detailed discussion on this in Ho, Mae-Wan, Carbon Capture and Storage A False Solution, Science in Society 39, Autumn 2008. [www.i-sis.org.uk](http://www.i-sis.org.uk)

<sup>15</sup> Bond, op cit

- **Economic**

Apart from the release of greenhouse gases into the atmosphere, gas flares are said to release some 45.8 billion kilowatts of heat into the atmosphere of the Niger Delta from gas flared daily. As a result of this incineration of the environment, gas flaring has raised temperatures and rendered large areas uninhabitable.<sup>16</sup> When nitrous and sulphur oxides from the flares mix with atmospheric moisture the result is acid rain. Acid rains wreak havoc on the environment – destroying crops, roofs and impacting human health.

Continued degradation in the form of spills and gas flares render the Niger Delta extremely vulnerable to the impacts of climate change with a projected loss of 50% ability to produce cereals by the year 2020 that would rise to 80% loss by 2050.<sup>17</sup> This is worse than any armed conflict.<sup>18</sup>

It is common to see women in **drying *kpokpo* garri and fish at flare sites**, bearing the searing heat and reaping a benefit of snacks dried by the infernal flames. The oil corporations may count this as an economic benefit to the people but the truth is that the products of these processes, the *kpokpo* garri and the dried fish are all poisoned and harmful to human health. It is amazing that neither the corporations nor the state have deemed it fit to halt the practice of processing food items in the heat of the toxic flames. This is not community development and there is no rational explanation for this assault on the health of the people. This destructive activity must be halted. Government owes the people a duty to assist in the provision of safe dryers that could easily be solar powered.

- **Climate Change**

Gas flaring releases greenhouse gases including carbon dioxide and methane into the atmosphere. Of these two, methane is actually more harmful than carbon dioxide. It is also more prevalent in flares that burn at lower efficiency. Those less efficient flares tend to have more moisture and particles in them that reflect heat and are said to have similar effect on the ozone layer like aerosols do. These are more harmful than more flares that burn more efficiently. In such flares the produced methane gets converted into carbon dioxide. On a casual observation of the flares in the Niger Delta one sees that they are sooty and are evidently burn at low efficiency.

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<sup>16</sup> Uyigüe, Etiosa and Agho, Matthew, *Coping with Climate Change and Environmental Degradation in the Niger Delta of Southern Nigeria*, CREDC, 2007

<sup>17</sup> International Institute for Applied Systems Analysis. *Food Security and Sustainable Agriculture – The Challenges of Climate Change in Sub-Saharan Africa*. At a side event of CSD16 at the UN, 8 May 2008

<sup>18</sup> Bassey, Nnimmo, *The Oil Industry and Human Rights in the Niger Delta*, paper at National Environmental Summit, Abuja, 20-21 October 2008.

Generally, climate change impacts are more pronounced on low-lying coastal areas such as the Niger Delta. These areas are prone to freak weather events, flooding, and coastal erosion and are the first to be affected by sea level rise. Due to raised temperatures, climate change favours proliferation of pests and spread of diseases. As mentioned earlier, they also seriously affect agricultural productivity. Having these climate change aiding gas flares located in the Niger Delta, one of the most vulnerable parts of Nigeria, is indeed a double tragedy.

We note that since Chad joined the ranks of oil states it has provided the missing layer to complete the sandwich that Nigeria has become: gas flares in the south and now gas flares from the oil fields of Chad to north. With these green houses gases being released from Chad and the old timers from the Niger Delta, it is readily seen that desertification will become even more threatening. Actions must be taken for the protection of our environment, tackling climate change and for the survival of our peoples.

### **The Way Forward: some recommendations**

1. The colonial government could not defend gas flaring. Today's government cannot defend it. There is a subsisting judgement against, Shell and the Nigerian government, given by the High Court in Benin City, 14 November 2005 declaring gas flaring at Iwerekhan an illegal activity and an affront to human rights of the people. That judgement has not been voided, but neither the state nor Shell has deemed it fit to put an end to the flaring. That judgement must be obeyed, otherwise where is the rule of law here?
2. The government must understand that the human and other costs of gas flaring cannot be equated to even the highest revenue brought in by the sale of crude oil. The so-called fines are accounted for as part of production cost of oil and are more or less paid for by the Nigerian state. They are no incentive for the corporations to stop the harmful practice. Halting gas flaring is a major step that government must take to show any seriousness to address the issue of the Niger Delta and to show acceptable global citizenship. **Continued gas flaring is a complete negation of efforts being made in the world to day to curb global warming.** It is also a slight on efforts to halt conflicts in the Niger Delta as well as giving the people a chance to recover their highly curtailed means of livelihood. **Gas flaring should be seen as violent action against the people.**
3. When corporations are told they must end this shameful act, we find that they often say cynically that the only way zero flaring could be achieved in some locations would be by shutting down production. **The truth is that indeed that is the best option: leaving the oil in the ground.** Doing this is indeed a simple, cost effective solution. It would help us to recover from the dizzying spins that crude oil has thrown us into; it would give us time for sober reflection. It would keep the carbon in the ground and there help rebuild a broken world. It would place a

new demand on our political leadership and resource managers would also be seriously involved in wealth creation. Leaving the oil in the ground would indeed help us see that the future of this great nation is not tied to crude.

4. Steps should be taken to measure the air quality in the gas flare communities and disseminate such information.
5. Facilities for processing agricultural products such as *kpokpo garri* and fish should be made available for local communities and the practice of drying these at toxic flare sites should be halted forthwith.
6. Government should be bold to review the joint venture agreements entered into in the oil sector to make for a fairer deal for Nigeria and clear allocation of responsibilities.

Fifty years of destructive exploitation is enough.