

## AMNESTY AS A TOOL IN THE NEGOTIATION TO END INSURGENCY IN THE NIGER DELTA

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**ABSTRACT;** *Amnesty as a Tool in the Negotiation to end Insurgency in the Niger Delta*  
The period between 2003 and 2009 witnessed an intensification of military insurgency and a dangerous degeneration of the conflict in the Niger Delta of Nigeria. The attacks on the oil production facilities by insurgent groups, sabotage by criminal syndicates and a flourishing kidnapping industry had transformed the Niger Delta from a region of political and social instability into a virtual war zone. Oil production had declined by over a million barrels, to about 1.6 million barrels per day. Major oil companies started relocating or shutting down their facilities from the region as the violence, which eventually spread to the other parts of the country could not be repressed by the heavily armed Joint Task Force (JTF) of the Nigerian Military. The implication of the crisis for the political and economic survival of Nigeria is believed to have propelled the Yar'adua administration in mid-2009 to offer 'amnesty' to the militants as part of a negotiated process of ending the insurgency in the region, while the issues in the conflict were being addressed by the government. This novel and unprecedented strategy was and still remains controversial but many agree that the problem of insurgency in the region was reasonably contained for several years following the offer of amnesty. This paper is an attempt to analyze the relevance of this policy as a negotiation strategy and a conflict management tool that can be used for future interventions in similar conflicts within the country and across the continent.

**KEYWORDS:** Amnesty, Insurgency, Negotiation, Conflict Management

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## INTRODUCTION

Without doubt, Africa has suffered tremendous decline and 'arrested development' as a result of conflicts. Since the end of colonialism, the collapse of social and economic institutions and the struggle for the control of political power by elites and ethnic groups have combined to ignite all kinds of conflicts across Africa, many of which have been violent and protracted. The prevalence of armed conflicts across the continent has left a trail of devastation, loss of precious human and material resources and a lot of nations in ruin. The fact that 35 of the 50 poorest countries in the world are in Africa is worrisome, but perhaps even more disturbing is also the fact that Africa still profiles the highest number of violent conflicts in the world today. These dysfunctional conflicts not only destroy existing capacity, accelerate brain drain and capital flight from the region, they also prevent foreign direct investments and all kinds of developmental initiatives from taking place.

Often described as disagreement through which two or more parties perceive a threat to their interests, needs or concerns, conflict on its own is neither good nor bad. The word conflict may conjure up negative images in the mind but the truth is that the problem is not as much with

conflict as it is with the method of its resolution or management. The existence of conflict is a symbol of human activity and must be seen as inevitable as long as there is interaction. In fact, lack of conflict is an indication of the absence of meaningful social interaction and could even be a bigger problem by itself. What is more important is how conflicts can be resolved in a collaborative way, perhaps through principled or interest-based negotiation that delivers a win-win solution to the parties in contention. If properly managed, conflicts have the potential to create better decisions, stronger relationships and an enduring awareness or recognition of the inter-dependence of interests.

The conflict in the Niger Delta of Nigeria which started with protests over the environmental impact of the exploration activities of some oil companies and the perceived marginalization of the region by the government in terms of infrastructural development and equitable allocation of resources, like many other conflicts in Africa, was mismanaged and allowed to deteriorate to the extent that it became dysfunctional and was eventually hijacked by self-serving militants and some criminal elements, who organized themselves into different armed gangs to prosecute an insurgency that almost brought the nation to its knees. As controversial as the 'Amnesty' program initiated by the Alhaji Umaru Musa Yar'adua led government may be, only very few will deny that the policy did not only provide a negotiated solution to the problem of armed insurrection in the Niger Delta but has also created a climate conducive for further negotiations and agreements concerning the core issues in the crisis to be reached. This paper is an attempt to critically evaluate the Amnesty program, not as a moral or ethical policy, but as a negotiation strategy that can be effectively used in the resolution of similar conflicts in Nigeria and even across the continent. To this extent, it examines negotiation primarily as a conflict management tool and specifically evaluates the Amnesty program from an end versus means perspective. It goes on further, to argue that in spite of certain shortcomings or obvious controversial implications, the policy adopted a successful negotiation approach to the resolution of the conflict, at least for now, which has provided both time and an enabling environment for the government and all the parties involved to effectively resolve the major issues at the root of the conflict. At the end, this paper hopes to draw attention to the relevance of 'Amnesty' as a peace building and reconciliatory instrument and to also evaluate the efficacy and benefits of negotiation as a cost effective and proactive communication-based approach to conflict management in Africa, especially at a time like this, when the continent can hardly afford the cost of violent confrontations.

### **Negotiation as a Conflict Management Strategy**

Traditionally conflicts have always been viewed as the competition between two or more parties over the acquisition or allocation of scarce resources. While scholars still generally agree that there needs to be more than one party to a conflict, many have dismissed the use of scarce resources as a parameter for defining or understanding the existence and nature of conflicts. Wallensteen (2002) argues that some conflicts are not essentially over economic or political resources and that the use of the terminology might miss conflicts involving economic orientation, human security, environment, historical issues, etc. According to him, such conflicts are not necessarily about resources, and when they are, these resources are, more importantly, not necessarily scarce. Swanström & Weissmann (2005) also posits that as far as conflict is concerned, perception rather than behavior or attitudes constitutes the most fundamental imperative. The issues in contention or the behavior of the parties, therefore, may be secondary to how they are perceived. The relative intentions of contending parties are most

times defined according to subjective perceptions and sometimes, even when there could be an abundance of space for agreement in a conflict, if the parties perceive the conflict as being impossible to resolve or the opponent to be untrustworthy, it might not help in resolving the conflict. To this extent, conflict can be also be defined as “perceived differences in issue positions between two or more parties at the same moment in time” (Swanström & Weissmann, 2005. p.9)

The relevance of defining conflict through perception is that it opens the window to a better understanding of the role of emotions in conflicts. Negative perceptions usually inflame emotions and make conflicts dysfunctional. Dysfunctional conflicts feed on emotions and can degenerate to the extent that the parties forget about the substantial issues and focus on retaliation or destroying the other party as was the case in the Niger Delta. No one is satisfied with the outcome of dysfunctional conflict, potential gains from the conflict are not realized, and the negative feelings at the end of one conflict are carried over to the next conflict, creating a negative spiral. As a result, dysfunctional conflict often becomes separated from the initial issue and continues even after the original conflict becomes irrelevant or is forgotten ([www.cengagesites.com](http://www.cengagesites.com))

Conflicts by their nature are always dynamic and never static. The intensity of conflicts can escalate or de-escalate over time depending on the behavior of the parties involved and the effectiveness of the conflict management process. When conflicts are ignored over a long period of time, the tendency towards escalation becomes almost unavoidable. Swanström & Weissmann (2005) describes conflict as cyclical in regard to their intensity levels, i.e. escalating from (relative) stability and peace into crisis and war, thereafter de-escalating into relative peace. They presented the conflict circle in the form of an upside down U-curve depicting five stages in the life circle of a conflict (stable peace, unstable peace, open conflict, crisis, and war). Stable peace is a stage of low tension when communication and cooperation between the parties are functional, especially in several other non-sensitive areas. Unstable peace is when the tension has increased to the extent that peace between the concerned parties has become negative and can no longer be guaranteed or sustained. At the stage of Open Conflict, the conflict is clearly defined and the parties begin to take action to deal with it. At this stage, even if a militarized option is not used, it is usually considered and likely to be adopted. When conflicts get to the Crisis stage, sporadic violence become common and parties begin to prepare for a full scale confrontation. By the War stage, armed conflicts become intensified and violence becomes widespread and pervasive. In the de-escalation phase the pattern is reversed, moving from war to crisis, through open conflict and unstable peace to finally reach a situation of stable peace (Swanström & Weissmann, 2005. p. 11).

In a way, many conflicts, including that of the Niger Delta, aligns properly with this inverted U-Curve model and offers several opportunities for proactive action which may bring about a resolution. When conflicts are allowed to escalate, the cost in human and material resources are usually enormous and regrettable. Friedrich Glasl (1982) also identified nine stages in the escalation of conflict:

Table 1: Glasl's Nine-Stage Model of Conflict Escalation

| Stage                                   | Main Conflict Issue   | Behavior  | Trigger to the next Level                            |
|---|---|---|--|
| <b>1. Hardening</b>                     | Objective Issues  | Discussion  | Argumentation Tactics                                |
| <b>2. Debate</b>                        | Objective issues<br>Superiority/inferiority   | Verbal confrontation<br>Argumentation<br>Emotional pressure<br>Debates  | Action Without<br>Consultation                       |
| <b>3. Action over Words</b>             | Objective issues<br>Self-image<br>Proving one's mastery   | One side gets frustrated and takes action without consulting the opponent.<br>Blocking opponent's goals and forcing the opponent to yield.<br>Decreased verbal communication and increased non-verbal communication | Covert attacks aimed directly at opponent's identity |
| <b>4. Images and Coalitions</b>         | Shift from focus on issues to the personalization of the conflict<br>"win or loss mentality"<br>Save own reputation | Coalition formation<br>Attacks on opponent's core identity<br>Exploitation of gaps in norms   | Loss of face   |
| <b>5. Loss of Face</b>                  | Fundamental Values<br>Restore own dignity<br>Expose opponent<br>Distrust of opponent                                | Attacking opponents public face<br>Restoring own prestige   | Strategic threats<br>Ultimatums                      |
| <b>6. Threat as a Strategy</b>          | Control opponent  | Extending conflict<br>Presenting threats and ultimatums that restrict future alternatives   | Execute ultimatums and threats                       |
| <b>7. Limited attempts to Overthrow</b> | Hurt opponent more than self<br>Survival  | Limited attempts to overthrow opponent<br>Opponent not seen as a person   | Effort to shatter opponent by attacking core         |
| <b>8. Fragmentation of the Enemy</b>    | Winning is no longer possible<br>Survival, outlasting the opponent<br>Malice  | Acts intended to shatter opponent<br>Annihilate opponent by destroying power base<br>No real communication  | Abandon self preservation<br>Total war               |
| <b>9. Together in the Abyss</b>         | Annihilation at any cost, including personal destruction  | Unlimited war with limitless violence<br>Accept own destruction if opponent is also destroyed   |  |

Source: GLASL, F. (1982) 'The process of conflict escalation and roles of third parties,' in G. B. J. Bomers and R. B. Peterson, (eds) Conflict management and industrial relations. The Hague: Kluwer Nijhoff Publishing. (pp. 119-140)

The last three stages of Glasl's Model illustrate the extreme and dangerous dimensions of escalated conflicts. The Niger Delta militants in attacking the facilities of the oil companies were also prepared to accept self-destruction and irreversible damage to the economic and social infrastructure of their region. This desperate and unreasonable move could have been avoided if adequate attention was paid to the conflict, especially within the first three stages of the Model. Thomas (1992) posits that behaviors for handling conflict fall along two dimensions: cooperativeness (the degree to which one party tries to satisfy the other party's concerns) and assertiveness (the degree to which one party tries to satisfy his or her own concerns). From these two dimensions emerge five conflict-handling behaviors:

- Avoiding: Withdrawing from conflict.
- Competing: One person tries to satisfy his or her own interests, without regard to the interests of the other party.
- Compromising: Each party is concerned about its own goal accomplishment and the goal accomplishment of the other party and is willing to engage in a give and-take exchange and to make concessions until a reasonable resolution of the conflict is reached.
- Accommodating: One person tries to please the other person by putting the other's interests ahead of his or her own.
- Collaborating. The parties to a conflict try to satisfy their goals without making any concessions and instead come up with a way to resolve their differences that leave them both better off

Interestingly, all these conflict handling behaviors either involve negotiation in one way or another or are negotiation by themselves. Negotiation and conflict are so intertwined that sometimes it is impossible to separate the two. Negotiation can be used to resolve or prevent conflicts and sometimes conflicts arise from failed negotiations or the inability of the parties to respect or implement negotiated agreements. The refusals to negotiate or even the declaration of war are negotiation strategies that have been commonly used in history to weaken the position of the opponent at the table. Understanding the process and dynamics of negotiation is perhaps the fastest route to effective and sustainable resolution of conflicts. Lickson & Maddux (2005) identified the four negotiation styles or attitudes most people use when confronting conflict or opposition:

Forcing/Adversarial (Win/Lose)  
Accommodating (Lose/Win)  
Compromising (Give/ Get)  
Collaborative /Non-Adversarial (Win/Win)

These negotiation styles explain the basic orientations and mindset with which most people approach the resolution of conflicts and also determine what they may likely achieve. People who have the "I must win" attitude usually fall into the Forcing/ Adversarial model while those who are quick to sacrifice their positions for the interest of peace have the Accommodating style. Those who must get something in exchange for concessions that they make to the other party fall into the Compromising style while the ones who aim to solve problems in a way that guarantees a win-win solution for all the parties frequently use the Collaborative style. Regardless of the style an individual has, it is still possible to learn other styles or even switch styles as the need arises in a conflict but in most situations, the collaborative style is often



recommended as the approach with the greatest chance of success (Lickson & Maddux, 2005. p.19)

Indeed, everybody negotiates. Whether we like it or not, negotiation is a fact of life. From buying a car to selling a house or deciding which movie to watch with the kids at home, people always have to negotiate. Negotiation can be defined as process in which two or more parties make offers, counteroffers, and concessions in order to reach an agreement ([www.cengagesites.com](http://www.cengagesites.com)). It can also be seen as a back-and-forth communication process designed to anticipate, contain, and resolve disputes so that parties with some shared and some opposing interests can reach mutually acceptable solutions (Novak & Hall, 2000. p.4). Some people negotiate without even realizing it while others cautiously approach it with a feeling of uncertainty and trepidation. Although negotiation takes place every day, it is not easy to handle. Standard strategies for negotiation often leave people dissatisfied, worn out, or alienated — and frequently all three (Fisher, Ury & Patton, 1991. p.6). Learning how to successfully conduct negotiations is crucial for success and better results, especially for those in conflict situations. Perhaps no book provides a greater insight to how this can be done than the ground breaking master-piece, *Getting to Yes: Negotiating Agreement without Giving In*, written in 1981 by Roger Fisher and William Ury. After several years of working at the Harvard Negotiation Project, the authors developed certain striking observations and recommendations that have now become pivotal to many negotiation studies. They outlined the basic problems faced in negotiations and proposed the interest –based or Principled Negotiation strategy as a model that can help the man on Wall street, the trader in Onitsha market, the militant in Warri, the terrorist in Bornu, the housewife in Lagos or the US diplomat in Mogadishu to achieve good results from negotiations. According to them:

“People find themselves in a dilemma. They see two ways to negotiate: soft or hard. The soft negotiator wants to avoid personal conflict and so makes concessions readily in order to reach agreement. He wants an amicable resolution; yet he often ends up exploited and feeling bitter. The hard negotiator sees any situation as a contest of wills in which the side that takes the more extreme positions and holds out longer fares better. He wants to win; yet he often ends up producing an equally hard response which exhausts him and his resources and harms his relationship with the other side. Other standard negotiating strategies fall between hard and soft, but each involves an attempted trade-off between getting what you want and getting along with people. There is a third way to negotiate: a way neither hard nor soft but rather both hard and soft: the method of principled negotiation...” (Fisher, Ury & Patton, 1991. p.6)

Principled negotiation is described as a fair method of reaching an agreement that is soft on people but hard on merits. It does not require the use of tricks or excessive posturing, yet it enables parties to come up with agreements that are both fair and decent. As difficult as it may seem to believe, the authors insist that it is possible to achieve this objective in every negotiation using the following principles:

- ☐ Separate the PEOPLE from the Problem
- ☐ Focus on INTERESTS, not Positions
- ☐ Invent OPTIONS for mutual gain
- ☐ Insist on using objective CRITERIA upon which to base agreement

In their view, the difficulties most people face in negotiations arise from a faulty premise based on bargaining over positions rather than on interests. In many situations, like trying to buy a car for example, people start off bargaining by stating their positions while concealing their real interests. Even when a compromise is reached through this process, by series of deceitful concessions, it is doubtful if a wise agreement that is efficient and does not damage the relationship between the parties can be obtained at the end. The authors maintain that:

When negotiators bargain over positions, they tend to lock themselves into those positions. The more you clarify your position and defend it against attack, the more committed you become to it. The more you try to convince the other side of the impossibility of changing your opening position, the more difficult it becomes to do so. Your ego becomes identified with your position. You now have a new interest in "saving face" — in reconciling future action with past positions — making it less and less likely that any agreement will wisely reconcile the parties' original interests (Fisher, Ury & Patton, 1991. pp.7-8)

The problem with negotiating with insurgents, like the Niger Delta militants or Boko Haram terrorists, for example, is the tendency to often start with positions. The dilemma is deciding which approach or position to take in managing such conflicts. Governments usually take a hard position from the beginning, refusing to negotiate with dissidents, as a matter of state policy. The conflict then begins to escalate and if care is not taken, could even degenerate to the stage 9 of mutual self destruction identified in Glasl's Model. Even when governments choose to use the soft approach, the outcome is not guaranteed to be satisfactory because the insurgents might become emboldened and could start making very unreasonable and ridiculous demands. The table below outlines the delicate nature of positional negotiation:

Table 2: Positional Bargaining: Which Game Should You Play?

| <b>SOFT</b>   | <b>HARD</b>  |
|---|--|
| Participants are friends                                      | Participants are adversaries                                 |
| The goal is agreement   | The goal is victory  |
| Make concessions to cultivate the relationship                | Demand concessions as a condition of the relationship        |
| Be soft on the people and the problem                         | Be hard on the problem and the people                        |
| Trust others  | Distrust others  |
| Change your position easily                                   | Dig in to your position                                      |
| Make offers   | Make threats   |
| Disclose your bottom line                                     | Mislead as to your bottom line                               |
| Accept one-sided losses to reach agreement                    | Demand one-sided gains as the price of agreement             |
| Search for the single answer: the one <i>they</i> will accept | Search for the single answer: the one <i>you</i> will accept |
| Insist on agreement   | Insist on your position                                      |
| Try to avoid a contest of will                                | Try to win a contest of will                                 |
| Yield to pressure   | Apply pressure   |

Source: Fisher, R., Ury, W. & Patton, B. (1991), *Getting to yes: Negotiating Agreement without Giving In*. New York: Penguin Books (pp. 9-10)

In negotiations, the best game to play should be neither soft nor hard. On the contrary, a game of principles based on the fundamental interest of the parties is preferable. According to the Harvard Professors, to succeed in a negotiation without losing out on essential interests, it is

important to start by first separating the people from the problem. People are by nature emotional and can easily allow their emotions to become entangled with their objectives. Taking a positional approach in negotiations usually worsens this problem because of the tendency to attach ego to positions, hence the first step in a principled approach should be to literally and figuratively detach the people and their emotions from the problem so that the real issues can be discussed. Once this is done, it then becomes possible to identify and focus on the interests of the conflicting parties. Regardless of the circumstances, parties seem to share certain basic needs, such as the need for security and economic well-being. To identify, understand, and deal with both parties' underlying interests you may:

- ☐ Ask why the party holds the positions she or he does, and consider why the party does not hold some other possible position
- ☐ Explain your interests clearly
- ☐ Discuss these interests together looking forward to the desired solution, rather than focusing on past events
- ☐ Focus clearly on your interests, but remain open to different proposals and positions (Fisher, Ury & Patton (1991) cited in Cutts, 2008. p.3)

As basic interests become clearer and recognizable, Fisher, Ury & Patton (1991) suggests that it is imperative for negotiators to move to the phase of generating creative problem solving options for mutual gain. At this stage four critical obstacles may be encountered:

- ☐ Deciding prematurely on an option and thereby failing to consider alternatives
- ☐ Being too intent on narrowing options to find the single answer
- ☐ Defining the problem in win-lose terms
- ☐ Thinking that it is up to the other side to come up with a solution to the party's problem (Fisher, Ury & Patton (1991) cited in Cutts, 2008. p.3)

However, the good news is that these obstacles are not insurmountable. The authors propose that negotiators should:

- ☐ Separate the process of inventing options from the act of judging them
- ☐ Broaden the options on the table rather than only look for a single solution
- ☐ Search for mutual gains
- ☐ Invent ways of making decisions easy (Fisher, Ury & Patton (1991) cited in Cutts, 2008. p.3)

The key to developing creative problem-solving options is to keep generating solutions that may be of low cost to the negotiator but of great benefit to the other party. If these options become acceptable to parties in conflict, then the next and final phase of the principled approach is to build agreements based on objective criteria. When interests are directly opposed, the parties should use objective criteria to resolve their differences. Allowing differences to spark a battle of egos and wills is inefficient, destroys relationships, and is unlikely to produce wise agreements. The remedy is to negotiate a solution based on objective criteria, independent of the will of either side (Cutts, 2008. p 4). This can be achieved if negotiators follow these prescriptions:

- ☐ Frame each issue as a joint search for objective criteria. Ask for the reasoning behind the other party's suggestions



□ Reason as to which standards are most appropriate and how they should be applied. Keep an open mind

□ Never yield to pressure, threats, or bribes – only to principles. When the other party stubbornly refuses to be reasonable, shift the discussion from a search for substantive criteria to a search for procedural criteria (Fisher, Ury & Patton (1991) cited in Cutts, 2008 p.4)

In contrast with the soft and hard positional bargaining styles, principled or interest-based negotiation, offers a more beneficial and credible template for parties to arrive at a wise solution in the end, as the table below demonstrates:

Table 3: Principled Bargaining: Negotiate on the Merits

| SOFT  | HARD   | PRINCIPLED  |
|---|--|---|
| Participants are friends                                      | Participants are adversaries                                 | Participants are problem-solvers                                |
| The goal is agreement   | The goal is victory  | The goal is a wise outcome reached efficiently and amicably     |
| Make concessions to cultivate the relationship                | Demand concessions as a condition of the relationship        | <b>Separate the people from the problem</b>                     |
| Be soft on the people and the problem                         | Be hard on the problem and the people                        | Be soft on the people, hard on the problem                      |
| Trust others  | Distrust others  | Proceed independent of trust                                    |
| Change your position easily                                   | Dig in to your position                                      | <b>Focus on interests, not positions</b>                        |
| Make offers   | Make threats   | Explore interests   |
| Disclose your bottom line                                     | Mislead as to your bottom line                               | Avoid having a bottom line                                      |
| Accept one-sided losses to reach agreement                    | Demand one-sided gains as the price of agreement             | <b>Invent options for mutual gain</b>                           |
| Search for the single answer: the one <i>they</i> will accept | Search for the single answer: the one <i>you</i> will accept | Develop multiple options to choose from; decide later           |
| Insist on agreement   | Insist on your position                                      | <b>Insist on using objective criteria</b>                       |
| Try to avoid a contest of will                                | Try to win a contest of will                                 | Try to reach a result based on standards independent of will    |
| Yield to pressure   | Apply pressure   | Reason and be open to reasons; yield to principle, not pressure |

Source: Fisher, R., Ury, W. & Patton, B. (1991), *Getting to yes: Negotiating Agreement without Giving In*. New York: Penguin Books (pp. 11-12)

The proposals of the principled approach developed from the Harvard Negotiation Project, have been around for over thirty years now. Essentially, times have changed and so have the

world and the people living in it. It would be reckless to assume that this model provides the solution to all negotiation problems. Every negotiation is different and negotiators hardly share the same perceptions. However, the basic elements do not change. The important thing, especially in conflict situations, is to always find a way to reach an agreement that is not only based on fair and credible criteria but can lead to a sustainable and enduring peace. The agreement between the Nigerian government and the Niger Delta militant based on the Amnesty program may suffice for now but unless the basic issues and fundamental interests underlying the conflict are sufficiently addressed through subsequent agreements, the resurgence of hostilities may likely continue over the years ahead.

### **THE AMNESTY POLICY AS A NEGOTIATED SOLUTION TO THE INSURGENCY IN THE NIGER DELTA**

The Niger Delta is a densely populated region in the southern part of Nigeria with a population of over 31 million people from more than 40 ethnic groups speaking close to 250 different languages. It encompasses over 60 per cent of Africa's mangrove forests and stretches about 70,000 km<sup>2</sup> to make up 7.5% of Nigeria's land mass (Eyinla and Ukpo 2006, Afinotan and Ojakorotu 2009). Originally made up of Rivers, Bayelsa and Delta States, since 2000, Abia, Akwa-Ibom, Cross River, Edo, Imo and Ondo States have been added to the region to conform to structure of the oil producing states of Nigeria.

The Niger Delta is a region endowed with immense oil deposits and tremendous amount of natural wealth and resources. Since the discovery of oil in huge commercial deposits in the region and the commencement of exploration activities at Oloibiri in 1956, the area has been the major source of national wealth. The oil production from the zone contributes about 90 percent to Nigeria's Gross Domestic Product and about 95 percent of the expected revenue upon which national budget estimates are based (IMF, 2003). It is generally estimated that Nigeria has raked in over \$500 billion so far from the sale of crude oil derived from the delta. Overtime, the environmental impact of the oil production on the communities and the struggle over an equitable formula for the distribution of the petro-dollars would become the source of endless altercations between the communities and the oil producing companies on one hand, and the communities and the federal government on the other hand.

Unfortunately, the failure of the government to regulate the activities of the oil producing companies in line with international best practices encouraged an attitude of carelessness and neglect over environmental concerns in many areas of their operations. Ogege (2011) observes that the activities of the multinational oil companies came with pains and adverse environmental consequences resulting from unregulated oil and gas exploration. Drilling chemicals such as soda ash, pipe lax, persene drilliad and incessant oil spillages introduce toxicity into the soil and endangered aquatic creatures. The toxicity causes tree defoliation, bark fissuring, seedling mortality, chlorosis, stunted plant growth and general loss of soil fertility. For the aquatic life, Omoweh (2005) reports that there is constant de-oxygenation of the water body which results in asphyxiation of planktons, which also causes the extinction of many aquatic organisms, fishes and other water creatures.

A grotesque picture of the environmental degradation suffered by the people of the Niger Delta was brusquely painted by the slain activist, Ken Saro-Wiwa in these words:

We in Dere, a community in Ogoni today are facing a situation which can only be compared to that of a civil war....the ocean of crude oil had emerged, moving swiftly like a great flood, successfully swallowing up anything that comes its way; crops, animals, etc....There is no pipe borne water and yet the streams, the only source of drinking water is coated with oil. The air is filled with crude and smells only of crude oil. We are thus faced with a situation where we have no food to eat, no water to drink and no air to breathe (Saro-Wiwa, 1995:14)

The frustrations, anger and bitterness generated throughout the oil producing communities by the activities of the multinationals were further compounded by the inability of federal government to provide basic infrastructure and employment opportunities for the millions of people from the area whose natural means of livelihood had been destroyed in the frantic search for black gold. Overtime, the lack of social responsibility and a coordinated program for the development the region by both the oil companies and the government stimulated the growth of discontent and fuelled agitations by the host communities for greater control over the revenue accruing from the oil sales. By 1966, what started as small pockets of protests and activism had escalated to a violent uprising. The first armed rebellion in the Niger Delta was led by Major Isaac Adaka Boro. On the 23rd of February 1966 at Tantonabau, Boro boldly declared the Niger Delta Republic (NDR) a sovereign nation and urged his 150 volunteers to fight for the freedom to control the resources given to them by God. Addressing his brave soldiers, Boro was both fearless and audacious as he said:

Today is a great day, not only in your lives, but also in the history of the Niger Delta. Perhaps it will be the greatest day for a very long time. This is not because we are going to bring haven down, but because we are going to demonstrate to the world what and how we feel about oppression. Before today, we were branded robbers, bandits, terrorists or gangsters but after today, we shall be heroes of our land...remember your seventy-year-old grandmother who still farms before she eats; remember also your poverty stricken people; remember too your petroleum which is being pumped out daily from your veins, and then fight for your freedom (Tebekaemi, 1983. p.117)

Although his rebellion was brutally quelled by the government in just 12 days, Boro succeeded in awakening the ethnic consciousness of the minorities of the Niger Delta and the establishment of several civil society groups (Omotola, 2009). If anything, the reprisal by the government deepened the feeling of animosity and hardened the determination of the people to continue the struggle. By 1990, another revolt led by the renowned playwright, Ken Saro-Wiwa, emerged in Ogoniland. Inspired by the non-violent protests of the American Civil Rights Movement, the Movement for the Survival of the Ogoni People (MOSOP) unveiled the major reasons behind their agitation through the presentation of The Ogoni Bill of Rights (OBR) to the Government in October of 1990. Therein, MOSOP demanded:

- ☐ Political control of Ogoni affairs
- ☐ The right to control and use a fair proportion of Ogoni economic resources for Ogoni development
- ☐ The right to protect the Ogoni environment and ecology from further degradation and
- ☐ Adequate and direct representation in all Nigerian national institutions (MOSOP, 1992)

Predictably, the government's response to these demands was repressive and reactionary. The Federal Military Government then, led by General Sanni Abacha, swiftly introduced the following measures to clamp down on the activists:

- ☐ The proscription of ethnic minority associations;
- ☐ The confinement, detention, arbitrary conviction and/or imprisonment of outspoken oil minority elites;
- ☐ The violent suppression, by military force, of protests, demonstrations and uprisings by oil minority communities;
- ☐ The official declaration of ethnic minority agitations for self-determination, or any disturbances of oil production activities for that matter, as a seditious or treasonable offense punishable with the death penalty (Suberu, 1996. p.xii)

Eventually, Saro-Wiwa was arrested by the military regime, tried, condemned to death by hanging on the 21st of May, 1994 and subsequently executed. The death of Saro-Wiwa, contrary to the expectation of the Federal Military Government, ignited an unprecedented rebellion throughout the Niger Delta that metamorphosed the struggle from sporadic non-violent agitations to full blown armed insurrection. Apart from the proliferation of splinter armed gangs that were kidnapping oil workers, conducting attacks on oil production facilities and government installations in the region, the major development in the conflict from this stage was the emergence of the Ijaw Youth Council (IYC) and the famous Kaiama Declaration of 11th December 1998. Again, rather than engage the IYC in a political dialogue or respond to the demands made in the Kaiama Declaration, the military government, in January 1999, sent in troops backed by warships that forcefully quelled the protests (Dokubo, 2005. p.192). The government's response instead of suppressing the revolt in the delta further exacerbated the conflict and triggered the emergence of many other resistant groups including the Movement for the Survival of the Ijaw in the Niger Delta (MOSIND), Niger Delta People Volunteer Force (NDPVF) and Movement for the Emancipation of the Niger Delta (MEND). As the insurgency intensified, the government vehemently refused to negotiate with the militants but rather applied more force.

For instance, in retaliation of the killing of a major, a lieutenant and 16 other members of the military Joint Task Force (JTF), allegedly by militants under the aegis of Camp 5- a militant outfit led by Government Ekpemupolo, alias Tompolo, the government on May 13, 2009 ordered the Army backed by the Navy and Air force to invade Gbaramatu kingdom ostensibly in search of the militants. The indiscriminate ground and aerial bombardment of the military sacked the villages of Kurutie, Oproza, Okerenkoko, Kunukunuma, Kiangbene, Benikurukuru and other communities in Gbaramatu kingdom. Many people including women and children were killed while those who fled became refugees in neighboring communities (Ogege, 2011. p.254). The more the government tried to repress the rebels, the more they continued to fester and spread out. By the beginning of 2009, over 100 different armed groups under the command of greedy, self serving and self-appointed generals were active in the Niger Delta, many of whom were criminals and armed mercenaries who had no relationship with the region or any understanding of the issues in their struggle. The combined effect of the militarization of the region, the kidnappings of foreign nationals for ransom, the bombings of oil facilities and pipelines, and the destruction of government establishments eventually forced the oil majors to start evacuating their operations from the region.

The consequence of this withdrawal was the virtual collapse of the socio-economic and institutional frameworks of the region and the drop of national oil output from about 2.3 million barrels per day in 2008 to less than 800,000 barrels in mid 2009. Consequently, the Nigerian economy, which is heavily dependent on the oil proceeds, was literally brought to its knees as the government seemingly ran out of viable options to deal with the conflict. It was under these circumstances that the administration of President Musa Yar'adua was compelled to find a non-belligerent solution that will end the insurgency and allow for the issues in the conflict to be comprehensively addressed. The Amnesty program, as it were, was born out of necessity. Although the predominant reaction of the government to the agitations from the Niger Delta was aggression and repression, it is important to note here that other non-violent efforts were also made to address the complaints of the communities. Adeyemo & Olu-Adeyemi (2010) chronicles government's major non-aggressive attempts to deal with the Niger Delta demands from the time of independence as follows:

1960 Niger Delta Development Board (NDDB)

1970 River Basin Development Authority (this was to develop the entire country's River Basins)

1993 Oil Mineral Producing Area Development Commission (OMPADEC) following report of Belgore Commission.

1998 Maj. Gen. Popoola Committee formed by Head of State, Gen Abdusalam to look into the problems of the Niger Delta. Report was not implemented.

2000 Act of the National Assembly forming the Niger Delta Development Commission (NDDC)

2002 Lt. General Alexander Ogomudia Special Security Committee Report on Oil Producing Area - Not Implemented

2003 Presidential Committee on Peace and Reconciliation headed by Maj. Gen. A. Mohammed (rtd), Chief of Staff to the president.

April 2004 Standing Committee on Good Governance and Corporate Responsibility headed by Dr. Edmond Daukoru, Minister of State for Petroleum.

July 2004 Presidential Standing Committee on the Niger Delta headed by Gov. James Ibori of Delta State.

2006: Presidential Committee on the Niger Delta, headed by President Olusegun Obasanjo.

2007: President Yaradua's 7 – Point Agenda (the Niger Delta security issue will be the primary focus under Security)

2008: Establishment of the Ministry of the Niger Delta

In terms of revenue allocation to the region, it is pertinent to add that the government also increased the derivation fund allotted to the oil producing states from 1.5 % of the total national revenue allocations to 13 % during the civilian administration of Chief Olusegun Obasanjo. As commendable as these government initiatives and even many more others not mentioned here may seem, their failure to assuage the demands of the communities may lie anywhere between their alienated conceptualization and poor implementation to the insincerity of the leaders, many of whom were from the communities themselves. In between the greed and selfishness of the militants and the corruption of the political leadership, it was difficult to identify those who were genuinely concerned with the agitations of the people or explain why the increased funds allocated to the region did not translate to any meaningful development on the ground. If the conviction of the former governors of Bayelsa and Delta States for looting the treasuries



of their respective states is anything to go by, then it is possible to conclude that the lack of responsible leadership within the Niger Delta was also instrumental to the failure of the various attempts by the government to resolve the issues in the conflict.

The offer of Amnesty to the militants announced by President Umaru Yar'adua on the 25th of June, 2009 was actually a recommendation of the Technical Committee set up in 2008 to evaluate alternative solutions to the resolution of the impasse and could not have come at any better time. By mid 2009, both the government and the militants had locked themselves into positions that would have become mutually destructive if creative negotiation strategies were not introduced. An amnesty is an exoneration and pardon from punishment for certain criminal, rebel and insurgent actions committed usually against the state and society. According to Ekumaoko (2013), an amnesty is always a conditional pardon backed by law and has a specified period of time for the assumed offenders to admit the offence and accept pardon. Amnesty guarantees an interregnum of peace, cessation of hostility and a state of unsecured quiet which necessitates a post conflict scenario for peace building. Ogege (2011) describes amnesty as a strategic state policy which takes a form of executive or legislative clemency in which offenders or those involved in illegal actions are formally pardoned. Once a person or group is granted amnesty, all records of the person's accusation, trial, conviction and imprisonment must be cast into oblivion or people must lose memory of whatever atrocities the person had committed. In other words, upon amnesty, the antisocial acts of a person are totally wiped from the records and he/she is considered not only innocent but also as having no legal connection with the crime in the first place (Schey, 1977). It was on this premise that President Yar'adua predicated his offer to the militants who were given from August 6th to October 4th of 2009 to accept. The comprehensive package of the Amnesty program was articulated in three phases: Disarmament, Demobilization and Reintegration (DDR). Militants who accepted the offer were expected to be officially pardoned, disarmed, demobilized and reintegrated back to their communities through a series of structured programs designed to rehabilitate them while the major issues in contention were being addressed.

Regardless of widespread skepticism and anxiety, the first phase of the Amnesty program ended with a huge success. The majority of the militants not only called off further hostilities but actually responded positively to the demand to disarm. In fact, by the 4th of October 2009, 20,192 militants comprising 20,049 males and 133 females respectively across the nine states of the Niger Delta denounced militancy and registered for the amnesty program (Ogege, 2011. p.254). Interestingly, the major commanders of the militant factions came on board which boosted both the credibility of the program and its efficacy as well. These major players are identified in the table below:



Table 4: Synopsis of Key Militants that Accepted the Amnesty in 2009

| S/NO | Names   | Date of Acceptance | Estimated Arms and Ammunitions Surrendered  |
|------|---|--------------------|---|
| 1.   | Solomon Ndigbara alias Osama bin Laden  | 26 June 2009       | Gave up 11 arms and 1,000 ammunitions   |
|      | Henry Okah  | 13 July 2009       | Though the supposed leader of MEND, Okah did not surrender any arm because he had been arrested in Angola and extradited to Nigeria since February 2008; where he was detained and was facing closed trial on 62 count charges. |
| 2.   | Victor Ben Ebikabowei alias General Boyloaf and 31 other militants; including Africa Owei, Joshua Macaiver and Ezizi Ogunboss | 7 August 2009      | Surrendered an assortment of arms totaling 520, ammunitions valued at 95,970 rounds and 16 gunboats.  |
| 3.   | Soboma George of Outlaws cult group   | 13 August 2009     | Surrendered 36 assorted weapons.  |
| 4.   | Kile Selky Torughedi (Young Shall Grow).  | 5 September 2009   | Gave up an assortment of arms totaling 100 weapons, ammunitions worth 100,000 rounds and 3 gunboats.  |
| 5.   | Ateke Tom of NDV.   | 1 October 2009     | Exact number is unknown but it included: anti-aircraft launchers, GPMG, AK-47 rifles, Mark 4 rifles, pistons and loads of ammunition.   |
| 6.   | Mafimisebi Othello and the Gwama Boys of Ilaje.   | 3 October 2009     | Surrendered different weapons, such as: sub-machine guns, AK-47 rifles, hundreds of live ammunition and arrows.   |
| 7.   | Biibo Ajube, second in command to Tompolo.  | 3 October 2009     | Surrendered several AK-47 rifles, heaps of ammunitions, hand grenades, rocket launchers and explosives.   |
| 8.   | Fara Dagogo of NDSF   | 3 October 2009     | Exact number is unknown but it also included: anti-aircraft launchers, GPMG, AK-47 rifles, Mark 4 rifles, pistons and loads of ammunition.  |
| 9.   | Government Ekpemupolo (aka Tompolo or GOC), a key militant of MEND.   | 3 October 2009     | Surrendered over 117 assorted weapons, 20 bullet proof jackets, numerous boxes of ammunitions, 26 camouflage uniforms, loads of dynamites, tear gases on 4th October 2009; the last day of the amnesty.                         |

Source: Gilbert, Lysias D (2010) Youth Militancy, Amnesty and Security in the Niger Delta Region of Nigeria in Ojabor, V & Gilbert, L (eds) Checkmating the Resurgence of Oil Violence in the Niger Delta of Nigeria. [http://www.iags.org/Niger\\_Delta\\_book.pdf](http://www.iags.org/Niger_Delta_book.pdf). Accessed on 03/24/2014

Since 2009, the Amnesty program has progressed from the disarmament phase through the demobilization phase to the current phase of reintegration. In spite of reasonable odds and recent attacks, the program has been successful in halting the violence in the creeks and has helped the region to return to a state of relative peace. Oil companies have again returned to their operational facilities and the national economy has regained lost momentum. In the

opinion of Hon. Kingsley Kemebradigha Kuku, the presidential aide in charge of the Amnesty program under the Jonathan administration:

The Federal Government has met the target of restoring peace, safety and security in the Niger Delta using the instrumentalities of the Amnesty Programme; and as a result, the nation's economy has rebounded. From a production level of a paltry 700,000 barrels of crude oil per day as at first week of January 2009, the relative peace that now prevails in the Niger Delta has aided the remarkable growth of Nigeria's oil production to between 2.5 and 2.6 million barrels per day as at today (Kuku, 2012. <http://www.globalagendaint.org/2012/04/brief-on-presidential-amnesty-programme.html>. Accessed 03/23/2014).

Understandably, many people will reject Kuku's assessment of the program as narrow and self-serving. Others may question the constitutionality of the Amnesty program or even the moral and ethical basis of granting presidential pardon to kidnappers, terrorists and murderers disguised as freedom fighters or the neglect of justice for the victims of their criminal activities. Many may criticize the lack of transparency and stakeholder's involvement in the implementation of the program or dismiss its achievements as peripheral or targeted at the symptoms rather than the root causes of the conflict. This paper admits that the Amnesty program in the Niger Delta, like many other DDR programs, all over the world has its shortcomings and will always be mired in pessimism and controversies. However, the interest of this study is not in the morality or propriety of the program as an instrument of justice and equity but in its relevance and efficacy as a negotiation apparatus and a conflict management strategy.

From this perspective, therefore, the paper observes that the Amnesty program allowed the parties in the conflict to separate the people from the problem. Both the government and the militants were able to step away from their egocentric positions to look at the main issues that they needed to address. The violence was destroying the communities and the national economy at the same speed, which was not in the interest of both parties. The real interests of the parties became clearer at the second stage of consultations and negotiations. The militants, just like the government, had fundamental economic, political, social and security needs that they were unable to meet through the altercations hence creative options for mutual gain became imperative and preferable. For example, while the commanders of the militant groups were making lots of money from the oil bunkering and the kidnappings, they were also living like rats in holes with a death sentence hanging on their necks. Besides, the money was also being spent on the purchase of more arms and the maintenance of their formations. Rich people need security to enjoy their wealth so it was probably frustrating for them to realize that more money in the conflict situation did not necessarily translate to a better life. On the side of the government, it would have become obvious that the use of force was ineffective in resolving the crisis and that the fighting was destroying both existing capacity and the capability of the administration to meet its financial obligations. Thus, the option of Amnesty was ingenious at that point because it provided not just a face-saving window for the parties but a realistic platform upon which subsequent negotiations could be built. In a way, the Amnesty policy is synonymous with the traditional conflict resolution methods in Africa which places great emphasis on reconciliation and rehabilitation of relationships rather than on retribution and punishment.

If judged with the Fisher, Ury & Patton's (1991) Principled Bargaining Model, it would seem that the Amnesty program scored high marks in the first three phases of an interest-based

negotiation process. However, the same cannot be said of the last phase which is reaching an agreement based on fair, credible and objective criteria. The lack of consultations and stakeholder's involvement both in the conception and the implementation of the program skewed the focus towards the militants alone rather than on the entire parties and issues involved in the conflict. The lack of transparency on the side of the government concerning the details of the funding and implementation of the DDR programs as well as the lack of participation of vital stakeholders such as the oil companies, the communities, the civil society groups and relevant international organization through the disarmament, demobilization and reintegration processes may mean that the criteria for the Amnesty agreement were neither known nor objectively tested. The importance of building an agreement on objective criteria is that it prevents the relapse of conflicts and guarantees the sustainability of peace.

Nevertheless, it will be unfair to dismiss the significant achievements of the program so far or its success as a negotiation strategy on the account of these inherent weaknesses. No negotiation process is perfect. The important thing at this stage is not to criticize without proffering more viable alternatives but to critically evaluate the procedural and systemic flaws in the agreement with a view to correcting them in time to enable subsequent agreements to be firmly anchored. Ideally, the Amnesty policy should serve as a means not the end of the conflict resolution process in the Niger Delta.

## CONCLUSION

The resolution or management of dysfunctional conflicts all over the world is an arduous task. No one should underestimate the challenges or belittle the efforts required to restore peace in any situation where atrocious violence has been perpetuated. As Nigeria searches for resourceful options in resolving the 'Boko Haram' insurgency in the North and the rest of Africa continue to brainstorm on viable solutions to incessant conflicts across the continent, the Amnesty program, if properly conceived and structured, offers a window of hope. Extant literature and intellectual discourse on the Niger Delta experience are dominated by anachronistic pessimism and predictions of doom. However, while many reviews of the policy have been negative, there is hardly any that has proffered an alternative solution to halting the violence, especially in the short term. This paper admits that there are certain weaknesses in the conceptualization, design and implementation of the DDR programs in the Amnesty package that may significantly affect deliverables along the entire value chain, but also argues that they are correctable and does not constitute sufficient defects to dismiss the modest achievements of the program so far. If the government and the militants are sincere, it is still possible to rectify the loopholes and reposition the policy to serve as a stepping stone for subsequent negotiations.

Unfortunately the sincerity of the major players in this debacle is doubtful. It appears that the entire program has been shrouded in needless secrecy and deceitful templates from conceptualization to implementation. For instance, very few people seem to know exactly how much the government is spending to keep the militants at bay or why other stakeholders like the oil companies, community based organizations and international agencies have not been engaged to participate in the funding or implementation of the DDR programs. Kinsley Kuku, the presidential aide in charge of the program under Jonathan's administration admitted that government funding was consistent and sufficient (Kuku, 2012) but unfortunately the essential details of the supply of these funds were never submitted to public scrutiny or verification. The

same trend has continued under the current Buhari administration. The common speculation is that apart from the money being spent on the program itself, government is secretly paying the commanders of the militant groups to remain calm and may also be buying their support with all sorts of ambiguous and inflated contracts. If this is true the implications are indeed quite grave. The danger in this kind of arrangement is that it is equivalent to blackmail and blackmailers never stop coming back until the victim's capacity is exhausted or destroyed. Besides, excess money in the hands of the militants portends grave danger in the sense that it could empower them in the future with the financial muscle to reform their resistance into a formidable and well equipped army that could effectively challenge the Nigerian military, if or anytime the agreements breakdown. The recent attacks from the 'Niger Delta Avengers' and the emergence of several new militant groups in the delta since the end of the Jonathan presidency suggests that this threat must not be taken lightly.

On the part of the militants, it is also unclear if their strange acquiescence is based on genuine inclinations towards national peace or on manipulative selfish reasons. The fact that former President, Dr. Goodluck Jonathan, comes from the Niger Delta has been seen by many as the major reason that prevented the militants, majority of whom are also from the same ethnic minorities, which have never been in control of political power since independence, from rocking the boat. The common assumption is that since Jonathan was not re-elected in 2015 and political power at the center has shifted to another region, the militants who have been greatly empowered by his administration, will most likely return to the creeks. If that happens as we are beginning to see from the recent surge in violent attacks across the region, many predict that the bloodshed and disaster that will follow future altercations will completely overwhelm the nation and the entire West African sub region. Therefore, there is an urgent need to build upon the gains of the amnesty program and accelerate the use of the amnesty window as the door to further negotiations and sustainable peace building rather than an end in itself.

Interestingly, certain developments within the polity provide reasons for optimism. For example, the passage of the Petroleum Industry Bill (PIB) that is currently awaiting the assent of the national assembly may present a good constitutional and institutional framework for addressing the legitimate concerns of the communities in the Niger Delta. Apart from compelling the oil producing companies to become more socially responsible, especially in dealing with the environmental impact of their operations and the social and economic needs of their host communities, the bill may end up unbundling the Nigerian National Petroleum Commission (NNPC), thereby separating the operator from the regulator. This may directly tackle the problems and agitations of the communities and hopefully create a more transparent and efficient framework for the future development of the region.

This paper specifically recommends that government should build upon the goodwill and time frame created through the Amnesty program to develop a more holistic peace plan that will deal with the critical issues in contention. The initial focus of peace negotiations on the militants through the policy is both understandable and commendable. However, there is a need now to involve the major stakeholder's, such as the communities and the oil companies, in the process of peace building through a periodic but sincere dialogue that will regularly address critical concerns and develop creative solutions that will resonate with the majority of the parties. As Malan (2008) observes:

The cessation of hostilities and the end of vocalized or overt violence does not mean the achievement of peace. Even peace agreements where they exist do not in themselves end wars and build sustainable peace. Rather these situations present an environment where with proper, delicate and committed leadership, the prospects of peace can be translated into lasting peace and the situations that threaten peace are eliminated. If we take the amnesty as a major milestone in the resolution of the conflict, then the region is in a transition to political stability and socio-economic transformation

Indeed, apparent imperfections notwithstanding, there is nothing wrong with the use of the Amnesty policy as a conflict management tool and especially as a negotiation strategy. As long as all the parties are committed and willing to find peace, it provides both the time and the environment for constructive dialogue and subsequent agreements to be developed. To this extent, this paper concludes that it is a good negotiation approach that can also be creatively applied to similar conflicts within the country and across the continent. As we all know, a doctor must first stop the bleeding before he can heal the wound!

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### Short Bio

Silk Ugwu OGBU is a political and communication strategist. His early education was at the University of Calabar, where he received a B.sc in Political Science. He later proceeded to Enugu State University of Science and Technology from where he earned both M.sc and PhD in Political Science (International Relations). He also holds an M.sc degree and another PhD in Marketing (Public Relations) from the University of Nigeria. His research interests include conflict management, political and development communication, branding, corporate reputation management, leadership strategies, community development and stakeholder relations management. He is a public relations consultant, a political analyst and a communication strategist. He has extensive experience from many years of private sector practice and has also contributed immensely through numerous conferences and publications to the pursuit of academic excellence. He lectures currently at the School of Media and Communication, Pan-Atlantic University, Lagos.