TITLE PAGE

Research Title:

The Militarisation of the Indigenous Peoples in the Niger Delta Region by the Nigerian Government; from a Constructivist Grounded Theory to Actionable-Based Policy Recommendations Geared Towards the Legal Protection of the Region's Indigenous Peoples.

Author:

Angela Ighosotu Bazunu.

Thesis submitted for the degree of Doctor of Philosophy to the School of Law in the University of Buckingham.

November 2017.

ABSTRACT

This research thesis, from the Niger Delta indigenous peoples' accounts and experiences, explores the social and legal factors that have motivated the Nigerian government's decision to militarise the Niger Delta region. The premise of this thesis stands on empirical work, which saw data gathered from interviews; these data were analysed using Charmaz's constructivist grounded theory methodology. Data were also gathered from documents to support the interviews codes; they were in the form of official documents derived from the State and indigenous organisations, and documents from mass-media outputs, all of which were also analysed using Charmaz's constructivist grounded theory methodology. The analyses of all data gathered led to the presentation of a unified theory detailing the social and legal motivations of the Nigerian government's decision to militarise the Niger Delta region. This theory prompted the proposal of actionable-based policy recommendations geared towards the legal protection of the indigenous peoples living in Nigeria's Niger Delta region. This research thesis makes two original contributions to knowledge; first is the methodological choice which saw the use of grounded theory methodology within the transformative framework; second is the provision of a theoretical explanation of indigenous struggles in the Niger Delta region, coupled with policy recommendations, solidly based on indigenous contributions and accounts which reflects the connection between social actions and the laws in Nigeria.

ACKNOWLEDGEMENT

I want to thank God Almighty, without Whom none of this would have been possible.

This thesis would not have been possible without the grant from the Federal Government of Nigeria's Special Educational Scholarship Program which funded my research for three years. My heartfelt thanks goes to Hon. M. O. Diden, Mr. G. O. Orogun Esq., Dr. L. Akaruese, Ms. Omo Osunbor, Ms. Ena Ogei, Mr. Benaebi Benatari, Mr. Edward Okumagba Esq. and Late. Chief A. Bubor for their tremendous support. I would like to express my sincerest gratitude to my supervisor, Dr. Sarah Sargent, for her unwavering support, commitment, patience and guidance towards the completion of my thesis. From the start to finish, your faith in this work, without question, kept me going. My heartfelt thanks goes to the staff of the School of Law in the University of Buckingham for their support through the years.

My sincerest gratitude to my Mum, thank you for being who you are and for giving me the best support system – my siblings. To my sisters, my rock, I cannot possibly thank you enough, your prayers and support are highly appreciated. To my brother, thank you for ensuring that stability was never absent in my life. To my nieces and nephews, thank you for always believing that your Aunty Sotu can do anything. To Michael, Pat and John Allinson, thank you for your support and for opening your homes to me through the years. Finally, to my friends and colleagues; Esther, Wumi, Aminu, Ibukun, Dr. Ernest, Idera, Eniayo, Lanre, Anjie, Tobi, Ladi, Enioma, Emeka, Peter, Martin, Grace, Misan, Pearl, and Sam; thank you for your support and encouragement.

This thesis is dedicated to the memory of my grandmother, Mrs. Eruejerien Onota.

Table of Contents

CHAPTER TWO

Using Constructivist Grounded Theory Method Within the Transformative Paradigm: A Detailed Analysis of this Research Thesis Method

CHAPTER THREE

Critical and Constructive Analysis of Interview Codes: Indigenous Peoples' Account and Experiences

CHAPTER FOUR

Critical and Constructive Analysis of Documents Codes: Government, Indigenous Organisations and Media Accounts of the Niger Delta Struggle

CHAPTER FIVE - CONCLUSION

Social and Legal Motivations of Militarisation: From a Constructivist Grounded Theory to Actionable-Based Policy Recommendations

LIST OF FIGURES

DECLARATION OF ORIGINALITY

I hereby declare that my thesis titled *The Militarisation of the Indigenous Peoples in the Niger Delta Region by the Nigerian Government: From a Constructivist Grounded Theory to Actionable-Based Policy Recommendations Geared Towards the Legal Protection of the Region's Indigenous Peoples* is a result of my own work and includes nothing which is the outcome of work done in collaboration except as declared in the Preface and specified in the text, and is not substantially the same as any that I submitted, or, is currently submitted for a degree or diploma or other qualification at the University of Buckingham or any other University or similar institution except as declared in the Preface and specified in the text. I further state that no substantial part of the thesis has already been submitted, or is currently submitted for any such degree, diploma, or other qualifications at the University of Buckingham or any other University or similar institution except as declared in the Preface and specified in the text.

Signature: Date:

CHAPTER ONE

INTRODUCTION TO THIS RESEARCH THESIS AND LITERATURE REVIEW

This chapter is a compilation of an introduction to this research thesis and the literature review. An Introduction, according to Creswell: 'establishes the issue or concern leading to the research by conveying information about the problem, creating readers' interest in the topic.'[1] Researchers need to review the literature as a means of indicating the extent of current studies in their topic area, and other matters that would prompt research method choices, amongst others.[2] Before this chapter advances into a descriptive and analytic account of the introduction into the research and literature review, both the research thesis purpose and question are made known.

Research Purpose Statement

The overall objective of this research thesis is to develop a theoretical explanation, based on indigenous peoples' accounts and experiences, of the Nigerian government's decision to militarise the Niger Delta region. From this, actionable-based policy recommendations geared towards the legal protection of the indigenous peoples living in the Niger Delta region are presented.

Research Question

What, according to the indigenous peoples of the Niger Delta region, are the social and legal factors that have motivated the Nigerian government's decision to militarise the Niger Delta region?

---

[1] J W Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches* (4th Edition, Sage Publications 2014) 107-108.
[2] M Birks and J Mills, *Grounded Theory: A Practical Guide* (Sage Publications 2011) 23.

INTRODUCTION

This research thesis discusses and analyses the social and legal factors that have, from the indigenous peoples' accounts and experiences, motivated the Nigerian government's decision to militarise the Niger Delta region. Its assertions maintain that the Nigerian government's social and legal motivations for militarising the region spanning over decades occurs simultaneously. The theoretical explanation of this research thesis developed from the application of the constructivist grounded theory thus concludes that; militarisation by the Nigerian government is a tactical social action stimulated by the power dynamics of the State and safeguarded by the self-serving laws of the State.

The misfortune that has accompanied being an indigenous person in Nigeria is not one that this research thesis can accommodate entirely. However, the militarisation of the region appears to be at the heart of all of the misfortunes faced by the region's indigenous peoples. The purpose of this chapter is to provide a synopsis of the contents of this research thesis's chapters, provide a background account of militarisation and some of its effects in the Niger Delta region thus far. This chapter then provides a historical account of the set-up of the Niger Delta region, as the flawed political, economic and social structure of the region were revealed from the research findings to be systematic motivators of the act of militarisation. The history of the region, and its struggles lays the foundation to the peoples of the region being classed as indigenous peoples. Following this, a list of events where the government have militarised the Niger Delta region, as reported by the media, is listed. These events date as far back as 1999 through to more recent times.

Furthermore, this chapter provides definitions of the core terms in this research thesis. Researchers are advised to present a section defining terms that are core to their thesis. Important to note here, however, is that the nature of the constructivist grounded theory method, which although deters researchers from preconceptions, required the definition of a few terms such as the research phenomenon at the start of conducting the research.[3] Following the collection and analyses of the interviews and documentary data, and the presentation of the

[3] See generally L Yarwood-Ross and K Jack, 'Using Extant Literature in a Grounded Theory Study: A Personal Account' (2015) 22(4) PubMed.gov 18. https://www.ncbi.nlm.nih.gov/pubmed/25783148 accessed 10 October 2016.

research's findings in the final chapters, more definitions of terms were included in this section, i.e. 'delaying the definitions until they appear in the study.'[4] This advice is closely linked to the task of presenting the literature review in this research thesis, which is also presented in this chapter. All of the above helps guide the readers' understanding of the research thesis.[5]

Chapter two of this research thesis, the methodology chapter, provides an overview and analysis of empirical legal research and the method applied in answering the research question and achieving the research's ultimate objective. This research stands within the transformative paradigm and uses Charmaz's constructivist grounded theory method, a combination which is an original contribution to knowledge, as researchers are yet to use the constructivist method within the transformative paradigm. The founders of both the transformative method and the constructivist grounded theory, Charmaz and Mertens, have, however, encouraged the application of this combination in research such as this, which looks into attaining social justice in marginalized communities. A further original contribution to knowledge, as highlighted in the methodology chapter is the mixture of the characteristics of the constructivist and critical theory schools of thought within the transformative paradigm. Data were uncovered from interviews conducted with six participants who are indigenous elites, and also from different types of documents that provided evidence of indigenous struggles with militarisation in the Niger Delta region over decades. The document choices were made and modified following the interviews, analysis and extensive research. The choices made within and around the above assertions are analysed and justified within this Chapter two.

Chapter three provides the analysis of the interview codes uncovered from the conduction of the elite interviews. Individual interviews data were initially coded using the line-by-line method manually. Following this, the initial codes of all interview data were axial coded together. The codes uncovered from the interview data were then presented using the axial coding chart created by Sargent in her academic research thesis,[6] following Scott's Conditional

[4] Creswell (n1) 42-43.
[5] Creswell (n1) 42-43.
[6] See generally S Sargent, 'The Best Interests of the Child In Intercountry Adoption: A Constructivist and Comparative Account' October (Dphil Thesis, De Montfort University 2009) https://www.dora.dmu.ac.uk/bitstream/handle/2086/3535/Sargent,%20Sarah%20PhD.pdf?sequence=1 accessed 17 September 2017.

Relationship Guide format.[7] The axial code chart developed from the interview data can be found in Appendix A labelled interview axial codes. From the axial coding charts relational statements were developed, as suggested by Strauss and Corbin,[8] and applied by Sargent in her academic research thesis.[9] Following the discussion of the relational statements, the emergent categories from the interview codes were analysed.

Chapter four provides the analysis of documents codes uncovered from analysing the documents. Analysis of the documents was undertaken as a means of supporting the interview codes from Chapter three. The documents analysed, following Bowen's assertion that researchers have the duty to filter data collected through an interpretive lens,[10] during and after the analysis of the interviews, were then filtered based on their relationship to the phenomenon, emergent categories from the interviews codes and their overall importance and categorized into three types. The types are; official documents derived from the State (government reports and recommendations), official documents derived from indigenous organisations (Bills, Charters, Compacts and Declarations), and lastly mass-media reports (newspaper reports). A list of the documents analysed can be found in Chapter two and Appendix C of this research thesis. The documents, as with the interview data, were coded individually at the initial stage using the line-by-line method manually. Following this, they were axial coded based on the type of document. The codes uncovered from the documents analysed, as with the interview codes, were then presented using the axial coding chart created by Sargent. The axial code chart developed from the documents analysed can be found in Appendix B labelled documents axial codes; for official State documents B3, Official indigenous documents B2, newspapers B1. From the axial coding charts relational statements were developed, as suggested by Strauss and Corbin. Following the discussion of the relational statements, the emergent categories from the documents codes were analysed.

---

[7] See generally K W Scott, 'Clarifying Analysis and Interpretation in Grounded Theory: Using a Conditional Relationship Guide and Reflective Coding Matrix' (2008) 5 Occupational Science and Occupational Therapy Faculty and Staff Research 1.

[8] J Lawrence and U Tar, 'The Use of Grounded Theory Technique as a Practical Tool for Qualitative Data Collection and Analysis' (2013) 11(1) Electronic Journal of Business Research Methods 29, 33.

[9] Sargent (n6).

[10] G Bowen, 'Document Analysis as a Qualitative Research Method' (2009) 9(2) Qualitative Research Journal 27,36.

Finally, Chapter five presents the constructivist grounded theory of this research thesis, which is an original contribution to knowledge. The theory is essentially a unified theoretical explanation of the deeper trends uncovered from the relational statements and emergent categories, explaining the social and legal motivations of the Nigerian government's decision to militarise the Niger Delta region. This is done in both a model and a discussion/descriptive format within this chapter, then the implications of the complex concepts revealed are analysed. From the above an analytical presentation of the theory within the proposed actionable-based policy recommendations is presented; these are geared towards the legal protection of the indigenous peoples in the Niger Delta against militarisation. A reflection on conducting the research is then presented, followed by the limitations and possible future research routes from the research's theory and analysis.

AN OVERVIEW OF MILITARISATION IN NIGERIA'S NIGER DELTA REGION

> You have not only succeeded in militarising the Niger Delta region now, but also succeeded in giving birth to so many negotiators and political jobbers within the government circle.[11]

The militarisation of the Niger Delta region is an illegal act that has led to the extended struggles of indigenous peoples in the region. When one asks the question, why is the Niger Delta region militarised? There are different answers provided by different parties; of all the parties involved, the two most important are the indigenous peoples of the region and the government, the latter having subjected the peoples of the region to militarisation. When asked, people cite resource control coupled with struggle for self-determination as the reason, whilst the government cites violent conflict and the need to curtail these conflicts as its reason. Allen asserts that on the academic front the failure of the Nigerian government to effectively implement laws and policies is equated as the reason behind military repression in the Niger Delta region.[12] This research developed an indigenous, experienced-based theory explaining the social and legal motivations of the act of militarisation, which has spanned decades, in the Niger Delta communities. From the discussion, assertions, and analysis, this research proposes

[11] A statement made about the Nigerian government by High Chief Government Ekpemukpolo (a.k.a. Tompolo) in the article by J Agbodion, titled 'Tompolo decries militarisation of Gbaramatu Kingdom' (2016) https://www.today.ng/news/national/136393/tompolo-decries-militarisation-gbaramatu-kingdom accessed 11 August 2016.

[12] F Allen, *Implementation of Oil Related Environmental Policies in Nigeria* (Cambridge Scholars Publishing 2012) 37.

actionable-based policy recommendations within which the indigenous peoples living in Nigeria's Niger Delta region can be legally protected, promoting their rights.

The peoples of the Niger Delta region as a whole have been victims of serious human rights violations, not only through the environmental degradation caused by the exploitation of their natural resources, but through military invasion as an aid to silence the peoples' cries of neglect and abuse. Natural resources found on indigenous lands are known for their attached detriments, which has seen these resources being regarded as somewhat of a curse rather than a blessing. Exploitation of natural resources such as petroleum without adequate measures of environmental clean-up and consultation rights have resulted in actions against the Nigerian government by the people of the Niger Delta. These actions have been in the form of demanding internal self-determination, peaceful protest, and in some cases outright militancy. All of these actions have been met by militarisation from the Nigerian government, which, like most developing countries, prioritises economic development over peoples' rights. According to Aka: 'Nigeria is a state wracked by conflicts of every type and description.'[13]

The struggles for the recognition of rights by the indigenous peoples of the Niger Delta have over the years moved from agitations and protest demonstrations to the wrecking of oil installations, amongst others. All of which have resulted in the militarisation of the Niger Delta area. It is safe then to say that the current state of the Niger Delta is as a result of not just the government, but other players, notably the indigenous oil producing communities themselves, local leaders, and international oil companies. Actions which have led to the militarisation of indigenous peoples in the Niger Delta region as a result of the ongoing crises can therefore be summarised as a conflict of values between the indigenous peoples of the Niger Delta, the Nigerian government and international oil companies. This research thesis tackles the role and relationship between the indigenous communities and the Nigerian government only; this is because the relationship between international oil companies and indigenous communities has already provided a wealth of information in both academia and the world at large.

[13] P C Aka, 'Bridging the Gap Between Theory and Practice in Humanitarian Action: Eight Steps to Humanitarian Wellness in Nigeria' (2016) 24(1) Willamette Journal of International Law and Dispute Resolution 1, 2.

The way forward for Nigeria as a country, with regard to indigenous struggles, is through the de-militarisation of the Niger Delta region at all levels.[14] The de-militarisation of the Niger Delta region should be the goal of the Nigerian government, who are prompted to understand the effects that durable peace can have in a country like Nigeria. The Nigerian government should, instead of past vague attempts at bringing peace to the region, effect genuine efforts and commitments aimed at justice and fairness in the Niger Delta region. Ensuring that the indigenous peoples of the region cease to be victims of the hostility and conflicts in the region.[15] This research proposes, amongst others, that it is reasonable to expect that the Nigerian Military at the very least discharges its statutory functions of curbing criminal activities proven, strictly within best practices and rules of engagement, by having regard to the sanctity of lives of innocent citizens living in the indigenous communities of the Niger Delta region. The Human Rights Watch have prompted the Nigerian government to apply a more comprehensive approach towards bringing the problems in the region to an end.[16] The indigenous peoples have been victims of an unresponsive government, violence partly instigated by resources and military repression. Hence this comprehensive approach is needed

This research used a qualitative empirical legal research methodology within the premise of the transformative paradigm and constructivist grounded theory methodology, in the form of elite interviews and document analysis, to evaluate contributions concerning the Niger Delta indigenous peoples' struggle, that have led to the militarisation of the region. This was in a bid to seek legal protection against the illegal act of militarisation for the indigenous peoples in the region through actionable-policy recommendations. The environmental problems already faced by the region include water pollution, industrial and solid waste, petroleum (crude oil and products) spillage and contamination, and gas flaring, amongst others. The social problems include conflicts between communities themselves and between communities and the Nigerian government, militancy, and human rights violations (i.e. illegal detention of locals) amongst others. It can be said that these environmental problems are what have led on to the social problems, influencing negatively the indigenous peoples' way of life.

---

[14] C Obi, 'Resource Control in Nigeria's Niger Delta' (2008) 3(16) Environmental and Planning Law Review 69, 78-79.
[15] S O Abidde, *Nigeria's Niger Delta: Militancy, Amnesty, and the Postamnesty Environment* (Lexington Books 2017) 30.
[16] Human Rights Watch, 'The Niger Delta: No Democratic Dividend' (2008) 3(16) Environmental and Planning Law Review 81, 161.

According to William Quigley:

> Some people come to law school not just to learn about laws that help people but also with a hope that they might learn to use new tools to transform and restructure the world and its law to make our world a more just place.[17]

In light of the above comment, this research thesis is based on the assertion that understanding the link between social actions and the law as a whole is essential to the promotion of not just indigenous rights, but human rights. Furthermore, separating society from legal instruments and the law means the law is regarded as merely a document, when it should be for people's protection.

THE NIGER DELTA

The Niger Delta is located in the South-South zone of Nigeria, and is made up of many ethnic nationalities with a rich and closely related cultural heritage.[18] It is comprised of 9 states (Abia, Akwa Ibom, Bayelsa, Cross River, Edo, Imo, Ondo, Delta and Rivers), 185 local government areas, a population of approximately 30 million, with 40 ethnic groups speaking 250 dialects, spread across 1,600 communities, and covering an area of over 70,000 square kilometres.[19] Because of their terrain, inhabitants of the Niger Delta region have traditionally been fishermen and farmers with abundant food supplies available all year round.[20] The region is rich in numerous natural resources, including petroleum resources such as oil and gas, agricultural resources such as palm oil, cassava, rubber, cocoa, and coconut, and a diversity of aquatic resources.[21] Over the years the Niger Delta has contributed significantly to the growth and development of various sectors of the Nigerian economy, producing the majority of Nigeria's oil and gas resources, which accounts for over 80% of revenues accruing to the Federal account.[22] According to McGinley:

> The Niger Delta provides a small-scale representation of many of Africa's problems; a growing population, conflicts between different ethnic groups,

---

[17] W P Quigley, 'Letter to a Law Student Interested in Social Justice' (2007) 1(1) DePaul Journal for Social Justice 7,13.
[18] K Kuku, *Remaking the Niger Delta: Challenges and Opportunities* (Mandingo Publishing 2012) 16.
[19] Abidde (n15) 19.
[20] Kuku (n18) 16.
[21] Kuku (n18) 16-17.
[22] See generally Abidde (n15).

> national political instability, unsustainable exploitation of natural resources, all of which play significant roles in the problems faced in the region.[23]

The region is known for its opposition to acts that threaten its groups' interests or survival. It is generally assumed that the exploitation of the peoples of the Niger Delta and the devastation of their environment began when Royal Dutch Shell discovered crude oil in the area in 1956.[24] Oil spillages and gas flaring, together with other forms of pollution occur in the Niger Delta region all too frequently, and are detrimental to the health of the environment and the local communities. Oil and gas operations in the Niger Delta over the last 50 years have caused considerable damage on the ecological balance in the region. Many years of neglect by successive governments in Nigeria and oil companies operating in the Niger Delta region has resulted in widespread poverty triggering recurrent agitation, conflict, and revolt.[25] The region's history and the people's ties to their lands establishes their claims to being indigenous.

Initial peaceful struggles by the Niger Delta peoples moved on to violence and killings, militant struggles and armed insurgency, as seen in the case of Ken Saro-Wiwa. According to Manby:

> The Niger Delta has for some years been the site of major confrontations between the indigenous peoples living in the communities and the Nigerian government security forces, resulting in extra-judicial executions, arbitrary detentions, and draconian restrictions on the rights to freedom of expression, association and assembly, violations of group rights, and violations of their rights to life and human dignity.[26]

Repressive military rule, corruption and theft of public funds in the Niger Delta region have resulted in substandard public services, with the government's failure to establish a foundation of law, provide social services, and protect the environment.[27] The illegality and injustice of the Nigerian government's decision to militarise the Niger Delta region is built from all of the above actions relating to their activities in the region.

---

[23] M McGinley, 'Niger Delta Swamp Forests' (2008) 3(16) Environmental and Planning Law Review 49, 57.
[24] I Okonta and O Douglas, *Where Vultures Feast: Shell, Human Rights and Oil* (Crown Publishers 2003) 6.
[25] Kuku (n18) 18.
[26] B Manby, 'The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities' (2005) 1(2*) Environmental and Planning Law Review 9, 9.*
[27] Abidde (n15) 42-43.

REPORTS OF MILITARY PRESENCE IN INDIGENOUS TERRITORIES IN THE NIGER DELTA

According to Cervenka:

> Military rule has become a style of government and a way of life, imposed on the general populace without their consent. The term militarisation can be used broadly to describe the following situations in Africa; the process of usurpation of political power by soldiers through military coups; the armed conflicts in Africa and the importation of arms, by which African wars are perpetuated; the arms build-up and military expenditures. In many respects the civilian one party, often synonymous with heads of state, is enforced by a powerful security apparatus, bears a striking resemblance to that of military regimes.[28]

The conflict dominated atmosphere in the Niger Delta region has resulted in the establishment of numerous Commissions that, according to the Nigerian government, were created to solve and contain the crisis in the Niger Delta region. These Commissions, although created, are yet to see the light of day because of issues ranging from lack of funding to lack of political will.[29] Some of them are dated as far back as 1951, evidencing the length of time indigenous peoples' struggles have been embedded in the region's history. Amongst these failed Commissions, military violent actions have been sanctioned by the government, giving birth to the militarisation of the Niger Delta region. Regrettably this has fuelled violent conflict and unrest in the region, with military actions evidencing no sanctity of human lives.

Some events and accounts of military presence which have resulted in oppression and repression, or threatened the peaceful existence of the peoples in the region from 1999 until the present day are listed below. It is important to note here that military presence in the region dates as far back as when petroleum was discovered in the region in the 1950s, but the decision to note events from 1999 is because Nigeria returned to democracy, from a military government, that year. These events and accounts were used to support interview and document codes and emergent categories made in Chapters three and four, and also in the presentation of the analysis of the theory in the final chapter. According to Sargent, Strauss and Corbin in grounded theory:

---

[28] Z Cervenka, 'The Effects of Militarization of Africa on Human Rights' (June 1987) Paper Submitted to the Conference on Human Rights: The African Context, Port Harcourt, Nigeria 2.
[29] Abidde (n15) 25-26.

> Stressed the importance of research that takes account of what they term as 'broader conditions' and how those have impacted the categories and relationships identified within the research. These 'broader conditions' are identified as social movements, trends, rules and regulations, organisational politics, and economic factors, amongst others.[30]

In this research thesis these 'broader conditions' are in the form of events, thus below are the listed events that supported the codes, emergent categories and analysis of the theory;

- 1999 – The Odi Massacre where the Nigerian army destroyed the town, claiming the lives of 2,483 people.[31]
- 2005 – In Odioma the Joint Task Force following a raid ordered by the Nigerian government killed 77 people.[32]
- 2009 – A raid in the Gbaramatu Kingdom led to the death of several people, the destruction of properties, and people being displaced.[33]
- 2010 – A raid of Ayakoromo led to the death of 51 persons, the injury of over 500 persons and destruction of over 200 buildings in the community.[34]
- 2016 – In Rivers State, five killed as the Nigerian army launched its 'Niger Delta Offensive'.[35]
- 2016 – In Okosugbene village the Nigerian army shot 14 villagers under the 'Operation Delta Safe'.[36]

DEFINITIONS:

Militarisation – This term is sometimes referred to as 'militarism', but the decision to opt for the word militarisation in this research thesis is prompted by the fact that 'militarisation'

---

[30] Quote in-text Sargent (n6) 73.
[31] P O Okumagba, 'Militancy and Human Rights Violation in the Niger Delta' (2012) 3(2) International Review of Social Sciences and Humanities 28, 32.
[32] Ibid 34.
[33] Okumagba (n31) 34.
[34] http://bayelsanewsonline.blogspot.co.uk/2010/12/ayakoromo-massacre-true-story.html accessed 3 October 2017.
[35] 'Nigerian Army Launches Niger Delta Offensive, Kills 5 Militants' *Premium Times* (Nigeria, 27 August 2016) https://www.premiumtimesng.com/news/headlines/209399-nigerian-army-launches-niger-delta-offensive-kills-5-militants.html accessed 2 October 2017.
[36] E Amaize, 'Army, Navy Shoot 14 in Delta Communities, 3 Residents Missing' *Vanguard* (Nigeria, 26 November 2016).

represents a process of action, rather than 'militarism' which indicates that the act has ended.[37] Militarisation, simply put, can be defined as the process whereby the military in a country are given the capacity to exercise a preference for the use of force in attempts to resolve conflicts.[38]

Indigenous peoples – There is no textbook definition of indigenous peoples; the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007's failure to provide one was a deliberate act. In defining indigenous peoples one is made to look at the characteristics possessed by a group of peoples, based on the principle of self-identification.[39] International and national legislation identifies these sets of peoples as those that are accorded special rights based on their historical ties to the land in which they reside; they have distinct cultural and historical traits that make their existence special.

Actionable-based Policy Recommendations – Policy recommendations are: 'written policy advice prepared for a group of persons, such as governments or organisations, that have the authority to make or influence policy decisions.'[40]

Elites – There is a broad understanding of characteristics that should be included when defining elites in the school of social science. Researchers, following this broad understanding, are seen to build up a definition for what elites should encompass in their researches.[41] This research thesis thus adopts Richards's definition of elites, which states that elites are:

> A group of individuals, who hold, or have held, a privilege position in society and, as such, are likely to have had more influence on political outcomes than general members of the public.[42]

---

[37] Militarization: Global, Regional and National http://nautilus.org/wp-content/uploads/2011/12/Chapter-2.pdf accessed 18 September 2017.
[38] Ibid.
[39] J Corntassel and T Hopkins Primeau, 'Indigenous "Sovereignty" and International Law: Revised Strategies for Pursuing "Self-Determination"' (2005) 17(2) Human Rights Quarterly 343, 365.
[40] Centre for Ageing Research and Development in Ireland, '10 Guidelines for Writing Policy Recommendation' http://www.cardi.ie/userfiles/Fact%20sheet%20%28web%29.pdf accessed 17 September 2017.
[41] 'Strategies for Conducting Elite Interviews' https://ore.exeter.ac.uk/repository/bitstream/handle/10871/16200/Qualitative%20Research.pdf?sequence=6 accessed 22 September 2017.
[42] Quote included in-text in A Boucher, A Mahboob and L Dutcher, 'Power and Solidarity in Elite Interviews' Paper for the American Political Science Association General Meeting (2013) Chicago 1,3.

For this research, elites are defined as those members of society who hold high ranking status, not necessarily government officials, but those who are knowledgeable in the affairs of society and are in positions to make a difference by using their status. They have decision-making influence in society; in simple terms, they are those with social power.

INTRODUCTION TO THE LITERATURE REVIEW

Qualitative research involves the discovery of new fields and exploring new areas of research, hence; researchers are prompted to avoid the review of literature when conducting qualitative research.[43] This research thesis rejects the above assertion, holding that the inclusion of a literature review chapter has been solidly established as a relevant set-up in the framework and stage in all social based research.[44] The below analysis encompasses the justification for this research thesis assertions and theory based on the review of literature in the form of theoretical frameworks. Important to note here is that this research opted for the inclusion of the review of empirical and methodological literature within Chapter two, methodology, (in-text review), as opposed to including them within this chapter. Furthermore, as will be noted below, the literature review chapter was not compiled and written until all interviews and documents data were gathered, analysed, coded and theory uncovered from the findings.[45] It was following the presentation of the theory that the relevant theoretical underpinnings were made clear.

Although there is a substantial amount of excellent works discussing the rights of indigenous peoples around the world, and the conflict dominated and militarised Niger Delta region in particular, there remains a gap in both academic literature and the policy frameworks in Nigeria. This is with regards to the social and legal motivations for the act of militarisation in respect to the Nigerian government's continuous violation of the indigenous peoples' rights in the Niger Delta region. What is seen, as highlighted in the theoretical frameworks below, are separate assertions on conflict dominated regions, especially with regards to the resources found on indigenous lands. This research literature review is presented on a theoretical frameworks platform, after the assertions of the frameworks have been analysed, references

[43] K Metzler, *An Introduction to Qualitative Research UWE Flick* (5th Edition, Sage Publications 2014) 65.
[44] M Lichtman, *Qualitative Research for the Social Sciences* (Sage Publications 2014) 226.
[45] J Corbin and A Strauss, *Basics of Qualitative Research; Techniques and Procedures for Developing Grounded Theory* (4th Edition, Sage Publications 2015) 371.

are made to this research theory developed in Chapter five. The purpose of this reference is to ensure that the reader knows where the research stands in respect to previous researches. The literature review provides the ground to familiarize oneself with a selection of existing writings about the social and legal situation on which this research thesis is based.[46]

The literature review and theoretical framework are required to express researchers' preference of different arguments and evidence of the phenomenon. They should not contain only summaries.[47] Following the above, a case for including a literature review in a constructivist grounded theory method, an act that has been highly debated based on the nature of the original grounded theory method and its general workings, is presented below. Following this, an analytical review of existing theoretical frameworks and concepts which are essential to assist in understanding the social and legal ties of indigenous peoples living in the Niger Delta region, is outlined, providing the ground for readers to familiarize themselves with writings on issues about indigenous peoples.

A CASE FOR LITERATURE REVIEW IN THE CONSTRUCTIVIST GROUNDED THEORY METHOD

There is a long standing misconception about whether there is a place for the literature review in grounded theory.[48] Literature review and its uses are contested between traditional and evolved grounded theorists, with the traditional view being that the review of literature in the area of study is not needed for fear of contaminating, constraining and impeding the researcher's analysis of codes that emerge from the data.[49] Researchers who follow the traditional view of grounded theory stand by this. Jones and Alony, concerning the grounded theory method in research, stated: 'literature does not inform the research, it is more a reality check for comparative purposes.'[50]

---

[46] Metzler (n43) 66.
[47] K Charmaz, *Constructing Grounded Theory* (2nd Edition, Sage Publications 2014) 305.
[48] Ibid. 306.
[49] J Mills, A Bonner and K Francis, 'The Development of Constructivist Grounded Theory' (2006) 5(1) International Journal of Qualitative Methods 1, 4-5.
[50] M Jones and I Alony, 'Guiding the Use of Grounded Theory in Doctoral Studies – An Example from the Australian Film Industry' (2011) 6 International Journal of Doctoral Studies 95, 110.

On the evolved grounded theorist view, researchers may already have been exposed to a mass of literature and extant theories related to the problem.[51] Hence the use of literature review is welcomed. The advantages of conducting a literature review in a grounded theory method research include allowing researchers to highlight the conceptual area within the phenomenon and relate the research questions to past researches.[52] Researchers despite the above, are prompted to delay the literature review in a bid to assist them in the articulation of their ideas.[53] The literature in grounded theory research is not used to set the stage for the study. Researchers are prompted not to use past literature to influence preconceptions on participants' answers; literature in grounded theory research must ensure that the research translates participants accounts and experiences. Researchers are prompted not to forget that the exploration of the study is a chief purpose of conducting qualitative research, hence they must presume that not much has been written about the topic and approach the field with the intention to listen to participants, building understanding from what the participants have reported.[54] Literature here should substantiate the research problem not constrain participants' accounts and experiences.[55]

Giles, King and Lacey, identified that there are varied approaches to conducting a literature review in qualitative research, one of which is to delay the literature review until data have been collected;[56] this is the approach that has been adopted in conducting the literature review of this constructivist grounded theory method research. It is this timing of carrying out the literature review in grounded theory research that has brought about much debate.[57] Researchers when conducting grounded theory method or methodology, although understood to have in some cases done extensive reading about the phenomenon, are prompted to avoid preconceptions and undue influence. They are also prompted to avoid forcing theoretical overlays on the data collected and its analysis.[58] The above actions, rather than acting as a guide

---

[51] G Alemu, B Stevens, P Ross and J Chandler, 'The Use of a Constructivist Grounded Theory Method to Explore the Role of Socially-Constructed Metadata (Web 2.0) Approaches' (2015) 4 Qualitative and Quantitative Methods in Libraries 517, 526.
[52] Charmaz 2014 (n47) 305.
[53] Charmaz 2014 (n47) 307.
[54] Creswell (n1) 29.
[55] Creswell (n1) 48.
[56] T Giles, L King and S Lacey, 'The Timing of Literature Review in Grounded Theory Research: An Open Mind Versus an Empty Head' (2003) 36(2) Advances in Nursing Research 29, 29.
[57] Birks and Mills (n2) 22.
[58] See generally B G Glaser and J Holton, 'Remodeling Grounded Theory' (2004) 5(2) Qualitative Social Research 1.

for researchers, would become constraining on the research.[59] In grounded theory method, the emergence of categories is core to the successful application of the methodology. Thus researchers are reminded that the above actions would violate the basic premise of the method.[60]

The above arguments, like others expressed in opposition to the inclusion of literature review in grounded theory research, are based on the belief that the critical element of analysis, which is necessary in grounded theory research, may be lost when conducting a literature review. Researchers in grounded theory research use existing literature is for analytical strategies in the research thesis.[61] According to Charmaz: 'here researchers are feared at this point to have become uncritical of what they read, becoming easily persuaded by it.'[62] Thornberg, in his rejection of the notion of pure induction, as summarized by Charmaz, asserts: 'when conducting a literature review in grounded theory research researchers successfully take a critical, reflective stance.'[63]

Ramalho, Adams and Hoare asserted:

> In grounded theory method, the epistemological assumption requires researchers to act as a channel from which uncovers theory between data and communities; researchers must do this without influencing its development. As a result of the above, the notion of conducting literature reviews when applying the grounded theory method threatens the epistemology assumptions of the method.[64]

One is prompted however to remember that, logically speaking, ultimately, whatever the research phenomenon, the researcher must investigate the research topic at the start of conducting the research thesis.[65] To enable researchers to carry readers throw how the research builds on the phenomenon necessitates the conduction of a literature review in researches, this exhibits honesty in academia and reflects how researchers contribute to the knowledge in that

---

[59] R Ramalho, P Adams, P Huggard and K Hoare, 'Literature Review and Constructivist Grounded Theory Methodology' (2015) 16(3) Qualitative Social Research 1.
[60] Ibid.
[61] See generally Ramalho, Adams, Huggard and Hoare (n58).
[62] Charmaz 2014 (n47) 307.
[63] Ibid.
[64] Ramalho, Adams, Huggard and Hoare (n59) 9.
[65] N Walliman, *Social Research Methods* (2nd Edition, Sage Publications 2016) 60.

field.[66] Researchers, however, must remember to initially, to the best of their ability, as noted above, ignore the literature.[67] If done successfully, it would protect the research against criticisms that literature reviews violate the grounded theory method.

This research stands on the premise that one cannot claim to be unaware of the data available in the research area in which the researcher is interested; reading about the area is part of what ignites the researcher's interest initially. Furthermore, as evidenced in this research thesis, in the interviews conducted, prior knowledge strengthened the rapport with the participants. In spite of this, care was taken to ensure that this prior knowledge did not influence preconceptions in the results findings. Hence particular attention was paid to deriving the theory from the codes revealed from the interviews and documents data. To satisfy the critiques of when a literature review should be carried out in the process of conducting grounded theory research, it has been established that researchers should: 'delay formal reviews of literature in order to prevent researchers from imposing existing theories or knowledge on the study outcomes.'[68] This research thesis supports arguments for a literature review, and adopts the approach of conducting the literature review after the collection of data; hence this was the final chapter section written. According to Charmaz: 'the literature review and theoretical framework can serve as valuable sources of comparison and analysis.'[69] This enables readers to understand how categories in the research were illuminated by other researchers' ideas, showing how the theory in this research extends, transcends or challenges dominant ideas in the research field of study.

EXISTING THEORETICAL CONCEPTS AND THEIR INFLUENCE ON THIS RESEARCH THESIS

Literature reviews can take one of three forms, they can build bridges between related topics, integrate what others have done, or identify the central issues in the field.[70] Theories developed in the past in relation to indigenous struggles are non-exhaustive. However, in a bid to prevent

[66] C Dunne, 'The Place of Literature Review in Grounded Theory Research' (2011) 14(2) International Journal of Social Research Methodology 111, 115.
[67] Ramalho, Adams, Huggard and Hoare (n59) 2.
[68] Birks and Mills (n2) 22.
[69] Charmaz 2014 (n47) 305.
[70] Creswell (n1) 28.

their influence on the theory emerging from this research, there was a need to temporarily place them aside. These past developed theories, also in the forms of concepts and principles, however, play crucial roles in researches in general, as they assist in highlighting researchers' original contribution to knowledge, hence the decision to present some relevant theories, principles and concepts relating to the theory developed in this research. In line with this, Creswell notes: 'literature reviews provide a framework for establishing the importance of the study as well as a benchmark for comparing the results with other findings.'[71] Furthermore, Glaser notes: 'it is necessary for the grounded theorist to know many theoretical codes in order to be sensitive to rendering explicitly the subtleties of the relationship in his data.'[72]

In line with the above, and the fact of prior existing knowledge, it was important to incorporate into this research thesis past theories, also in the forms of concepts and principles, that had been developed, and identify significant findings, whilst presenting their connections to this research's theory. Originality in grounded theory studies most commonly can be found in extending current ideas, and comparing emerging theory/theories with the existing literature (similarities and differences in the frameworks).[73]

THE THEORY OF DEVELOPMENT GENOCIDE

Following the displacements of indigenous peoples in the Niger Delta region comes the theory of development genocide. The theory of development genocide transpires as a result of the growing demands of extractive industries for resources found on indigenous lands.[74] Gedicks describes the process development genocide as:

> Involving a dehumanisation of those who stand in the way of economic exploitation of valuable resources. The basic element of this process involves a degradation of each victim, implying their inferiority or worthlessness. Native communities who occupy lands containing untapped resources are frequently described as 'primitive', 'savages' or 'obstacles'. From the perspective of the 'members of the culture of consumption,' it follows that if another culture's

[71] Ibid.
[72] Charmaz 2014 (n47) 150.
[73] Charmaz 2014 (n47) 289.
[74] 'Development Genocide' September 2009 Peace Action Montgomery https://peaceactionmc.wordpress.com/2009/09/14/developmental-genocide/ accessed 18 September 2017.

> resources appear to be underexploited, this is all the justification needed to take those resources.[75]

The 1986 United Nations General Assembly Declaration on the Right to Development states that development is an inalienably human right applicable to every human person or all peoples.[76] This research thus asserts that States in depending on development as a right, continue to adopt the defence of development projects when carrying out actions amounting to illegalities and injustices against indigenous peoples. Legal scholars, however, have reportedly only recently gotten accustomed to the evaluation of displacements through development projects being included as a perspective in international law.[77] Rajagopal argues:

> The result of development-based resettlement is often a soft form of genocide or crime against humanity involving systematic and deliberate destruction of ethnic, racial and religious minorities and indigenous peoples.[78]

Legal and social motivations of the act of militarisation revealed in this research's theory complements the process of the theory of development genocide. Government's self-serving laws emanating from legal instruments like the Land Use Act 1978 and the Petroleum Act 1969 are by their very nature discriminatory towards the indigenous peoples living in the Niger Delta region. The provisions of the Land Use Act have successfully ensured that the indigenous peoples in the region are stripped of ownership rights to lands, thus they enter into agreements with the Nigerian government over their homes. In cases where they have gone on to challenge these dynamics they become internally displaced. Furthermore, the act of militarisation which entails the Nigerian government's sanction of the use of military force against the indigenous peoples in the region has escalated into events that have seen indigenous communities scorched by inebriated by power. Dehumanising acts that have seen these peoples being subjected to rapes, abuses, and murder have continually forced them out of their homes.

This research in its support for the process of development genocide, maintains that the above actions carried out by the Nigerian government through its laws and its established oppressive

---

[75] Ibid.
[76] http://www.un.org/documents/ga/res/41/a41r128.htm accessed 2 October 2017.
[77] S R Roos, 'Development Genocide and Ethnocide: Does International Law Curtail Development-Induced Displacement through the Prohibition of Genocide and Ethnocide?' (2002) 9(3) Human Rights Brief 14, 14.
[78] Ibid.

relationships in the Niger Delta region is motivated by their narrow bids to develop the national economy. This development of the national economy is realized through the expropriation of resources found on indigenous lands, which the Nigerian government ensures remains uninterrupted. This uninterrupted access to the resources found on indigenous lands is further promoted by the Petroleum Act which places 100% ownership of resources found on indigenous lands on the Nigerian government. All of these processes are done amid the illegalities and injustices surrounding the government's practices through the militarisation of the Niger Delta region. The idea behind this is that the containment of challenges raised by the indigenous peoples are silenced through displays of violent conflicts. These clusters of violent conflicts in the region therefore safeguards the Nigerian government's acts of fractioning profits attained from resources for the purpose of development are not exposed to the world. The underlying issues motivating the militarisation of the Niger Delta region becomes lost in translation.

There however arises the question here of whether the term 'genocide' is too intense to apply to discussions of displacement of indigenous peoples motivated by development? In answering this, Roos found:

> The concept of genocide is not quite adequate to deal with the destructive consequences of development-induced displacement of minority communities. In most cases, it will be difficult, if not impossible, to prove that forced dislocations in the context of development project, including those leading to the physical or cultural destruction of a minority group, constitute genocide within the Genocide Convention.[79]

She in making the above assertions, recognised that in displacements in the context of development projects a more suitable term may be referring to genocide in this instance as one of 'soft form' or 'special category'. This research's thesis in accepting Roos's contributions advocates that the reference of genocide as 'soft form' whether in the approximation of judicial technicalities or not, downplays an explicitly serious situation. However, understanding is drawn from her assertions on the difficulties in justifying the existence of genocide with regards to the events of militarisation in the Niger Delta region, noted above, that have led to the loss of thousands of lives. This is following the Nigerian government's narrow bid of the development of the national economy, and until date the government and its officials

[79] Roos (n77) 21.

sanctioned to carry out these inhumane acts are cleared of these injustices reiterating their defence of containing violent conflicts and preventing secessionist movements in the Niger Delta region. Lives lost from these government actions are disgracefully not those of the peoples who are tagged as militants conducting criminal activities.

In consideration of the above this research thesis accepts that the difficulty in proving development genocide, especially in developing countries, makes it inadequate. This research's theory however accepts the processes that constitute development based genocide, proposing that there is a gap in academia to be filled regarding the acceptance of Roos' proposed term of 'special category' in describing development induced genocide.

THEORIES OF CONFLICT

This research theory revealed violent conflict as the simultaneous outcome of all factors that motivates the Nigerian government's decision to militarise the Niger Delta region. Theories of conflict emerged from Karl Marx's works on the causes and consequences of class conflict; the foundation upon which he developed his theory was based on class boundaries which saw the powerful minority class oppressing the majority cast.[80] This oppression of the majority party was birthed as a result of inequitable distribution of resources.[81] According to Marxists: 'unequal economic relations lead to social conflicts, and if the oppression of the proletariats continues, there is a likelihood that conflicts will persist.'[82] In line with this institution of economic relations, Ajiboye, Jawando and Adisa asserted:

> The Niger Delta indigenous peoples' decision to engage the Nigerian government in conflict and warfare appears to be a direct contrivance of the extent of exploitation of natural resources found on their lands and the economic value of the resources in the world.[83]

[80] https://www.thoughtco.com/conflict-theory-3026622 accessed 25 October 2017.
[81] Ibid.
[82] O E Ajiboye, J O Jawando, W B Adisa, 'Poverty, Oil Exploration and the Niger Delta Crisis: The Response of the Youth' (2009) 3(5) African Journal of Political Science and International Relations 224-232.
[83] Ibid.

Following the above, in relation to the established military presence in the Niger Delta region which coincide with this research's thesis assertions and theory, Cheeka purports that in the Marxist school of thought it is asserted:

> The accidental must be separated from the essential. It is further stated that, 'necessity expresses itself through accident'. If those soldiers had not been killed, the Nigerian ruling class, faced with dwindling oil revenues in a time of global economic crisis, would have found another military political pretext to launch this offensive. In other words, this action was inevitable.[84]

Following the above outlook on theoretical frameworks known from the Marxist school of thought, it is important to note that theories of conflict have, following the works of Karl Marx, been further developed in accordance with the economic, social and political affiliations in the world. Different schools of thought have designed model theories of conflicts based on these affiliations. Important to note, however, is that the above listed affiliations are by no means exhaustive; the listed affiliations are relevant to this research thesis and its end product, which presents a constructivist grounded theory explaining the social and legal motivations of the Nigerian government's decision to militarise the Niger Delta region. It is important to note that in the development of theories of conflicts, on the one hand some models are focused on individual motivations, whilst on the other the models are focused on group motivations.[85] This research thesis following its focus on indigenous peoples as a group and their struggles within a community, opted for the analysis and review of group motivated theories of conflicts. Furthermore, the problem-solving nature of this research thesis necessitated the analysis and review of Zartman's 'Theory of Ripeness' which is a model of the aspects of timing and initiation in negotiations aimed at resolving conflicts.[86]

---

[84] D Cheeka, 'Nigeria: Militants; Armed Forces; Innocent Victims' (September 2009) http://www.marxist.com/nigeria-militants-armed-forces-niger-delta.htm accessed 17 September 2017.
[85] G K Brown and F Stewart, 'Economic and Political Causes of Conflict: An Overview and Some Policy Implications' (February 2015) CRISE Working Paper No. 81 1 http://www3.qeh.ox.ac.uk/pdf/crisewps/workingpaper81.pdf accessed 25 October 2017.
[86] I W Zartman, 'Ripeness: The Importance of Timing in Negotiation and Conflict Resolution' (20 December 2008) E-International Relations http://www.e-ir.info/2008/12/20/ripeness-the-importance-of-timing-in-negotiation-and-conflict-resolution/ accessed 25 October 2017.

- **The Theory of Economically Motivated Conflicts**

Economic motivated conflicts is regarded as amounting to the copious problems in the world today.[87] Regarding economically motivated conflicts, there is a wealth of academic literature on theories developed by reputable researchers. This research thesis however, following the analysis of the codes and development of the theory in Chapters three, four and five, opted for the analysis and review of the econometric model developed by Collier and Hoeffler,[88] following Collier's 'greed and grievance' thesis of civil war. The authors here sought out to uncover the factors that motivate conflicts, they thus: 'predict the outbreak of civil conflict.'[89] The focus of the model is based on opportunities that negate rebellion, and consequently motivate conflict. From this the authors rejected the objective indicators of grievances in the tune of social influences, but accepted that greed motivates conflicts.[90] According to them:

> Opportunity as an explanation of conflict risk is consistent with the economic interpretation of rebellion as greed-motivated... But grievances that motivates rebels may be substantially disconnected from the large social concerns of inequality, political rights, and ethnic or religious identity.[91]

In recognising only that greed not grievances motivate conflicts, the authors however casually stated that their model although has not supported social concerns such as inequalities, noting: 'if rebellion were a protest against low income, we might expect inequality to have strong effects, which we do not find.'[92] Such statements suggests that the authors have not sufficiently reviewed the influence of social concerns, which is the reality of the world, in their assertions. Thereby reiterating the dominance of the development of economies around the world, which has successfully and disappointedly taken authority over the wellbeing of indigenous peoples. Economic benefits assisting the development of the nations such as Nigeria, is thus reiterated in this research thesis to be at the detriment of the indigenous peoples living in the Niger Delta region. The authors however, also stated: 'potentially, any increase in conflict risk may be due to rebel responses to such poor governance rather than financial opportunities'. This research thesis accepts this statement, reaffirming that the lack of consideration of the wellbeing of citizens by the Nigerian government equals poor governance on the part of the government.

---

[87] http://shodhganga.inflibnet.ac.in/bitstream/10603/13157/7/07_chapter%202.pdf accessed 25 October 2017.
[88] P Collier and A Hoeffler, 'Greed and Grievance in Civil War' (2004) 56 Oxford Economic Papers 563, 563.
[89] Ibid.
[90] Collier and Hoeffler (n88) 587-588.
[91] Collier and Hoeffler (n88) 589.
[92] Collier and Hoeffler (n88) 588.

Thus in respect to the indigenous peoples of the Niger Delta region, the authors may have remotely accepted that the social structure of Nigeria motivates conflicts, thus prompts the Nigerian government's decision to militarise the Niger Delta region.

Their model explaining the motivations of conflicts omits considerations of marginalised groups such as the indigenous peoples of the Niger Delta region. In addressing such delicate issues like conflicts, it is necessary not to objectify positions of thoughts. The transformative paradigm nature of this research thesis, which is supported by characteristics of the critical and constructivist paradigms, rejects such positivist schools of thoughts in addressing conflicts. This is so especially when conflict is in relation to a group of peoples who have been historically oppressed and repressed through acts of militarisation, and discriminated on by various actors on the accounts of their struggles. Following their findings, Collier and Hoeffler, maintained that grievances are ultimately insignificant in motivating conflicts. In doing this they failed to make considerations for inequalities, injustices, power dynamic through corrupt relationships, and self-serving discriminatory laws. Furthermore, they failed to address legal motivations of conflicts. This research thesis thus makes the assertion that legitimate grievances emanate from these considerations and actions. In doing so, this thesis recognises that the failure to make the above considerations leaves a gap in academic literature, thus the presentation of this thesis's theory is an original contribution to knowledge.

Despite this research thesis's rejection of the above assertions in relation to grievances emanating from social concerns, it accepts Collier and Hoeffler's economic motivation of conflicts. This is because in making this assertion of an econometric model, the authors', accept the conflicts by greed, i.e. opportunities. Greed in this research thesis can be equated to the motivation emanating from the actions of the Nigerian government; actions is the forms of their bids to expropriate resources found on indigenous lands without interruption, and that which sees them bypassing consultation whilst fractioning profits attained from these resources. According to Collier and Hoeffler:

> The model that focuses on the opportunities of rebellion performs well… opportunity as an explanation of conflict risk is consistent with the economic interpretation of rebellion as greed-motivated.[93]

[93] Collier and Hoeffler (n88) 587.

This research thesis thus, asserts that the idea behind the econometric model within the authors' school of thought ultimately achieves its purpose. Furthermore, as a model its partial robustness in the place of mentioning but not accepting other influences of conflicts, convenes ideas of further research.

- **The Theory of Socially Motivated Conflicts**

There are vast researches and models on socially motivated conflicts in academia. This research thesis, however, following the analysis of the codes and development of the theory in Chapters three, four and five, opts for the analysis and review of Brown and Stewart's position on Immanuel Kant's idea of a 'social contract theory'. The idea behind Kant's Social Contract is:

> The social contract is in fact merely an idea of reason, which nonetheless has undoubted practical reality; for it can oblige every legislator to frame his laws in such a way that they could have been produced by the united whole of the nation.[94]

This idea of the social contract theory, as expressed by Brown and Stewart, provides an explanation of socially motivated theory of conflicts. Their explanation of this theory sits on what they regard as the failure of social contracts, which according to them motivates violent conflicts. Brown and Stewart, contrary to the above assertions on grievances made by Collier and Hoeffler, proposes:

> The explanation of violent conflicts points directly to grievances. It derives from the view that social stability is premised on an implicit social contract between the people and the government. According to this contract, people accept state authority as long as the state delivers services and provides reasonable economic conditions in terms of employment and incomes. With economic stagnation or decline and worsening state services, the social contract breaks down and violence results.[95]

Social conflict thus arises when two or more parties have conflicting goals.[96] According to Stewart: 'violent conflicts in multi-ethnic and multi-religious countries remain a major problem in the world today.'[97] This research's assertions and theory applauds this socially based

---

[94] http://www.grin.com/de/e-book/110776/john-rawls-and-immanuel-kant-a-comparison accessed 25 October 2017.
[95] Brown and Stewart (n85) 13.
[96] (n80).
[97] F Stewart, 'Horizontal Inequalities as a Cause of Conflict: A Review of CRISE Findings' (20 August 2010) World Development Report 2011: Background Paper 2

analysis's reference to the failures of social contracts, and maintains that the situation in the Niger Delta region is one that should be classed as a breach of social contracts. The Nigerian government by virtue of its 1999 Constitution is responsible for providing its services for the benefits of its people. The reverse is the case. In breaking social contracts this research uncovered social factors motivating the Nigerian government's decision to militarise the Niger Delta region to be within the processes of power dynamics and self-serving laws which have resulted in intensifying illegalities and injustices in the region.

The absence of social stability in the Niger Delta region, evidenced in unemployment and poverty levels, prompts retaliation from the indigenous peoples living in the Niger Delta region. The peoples hold legitimate grievances against the Nigerian government, which is separate from that attained by virtue of them being citizens of Nigeria. The fact that the Niger Delta region holds the resources which sustains the national economy is reiterated, by virtue of this fact focus on development projects that are beneficial to the peoples should be prompted. This is however not the case. Development projects such as that of the $16 billion Export Processing Zones project in the region are only spearheaded by the Nigerian government to incite ethnic conflicts within the Niger Delta region. The Nigerian government have continually failed to provide workable solutions to the social instability in the region prompted by the poverty levels and unemployment.

Violent conflicts involving the Nigerian government have further intensified poverty and unemployment in the Niger Delta region. Clashes have resulted in companies' decision to move from the 'war zones' of the Niger Delta. This is despite the fact that with resources such as petroleum there comes immense profits for oil companies. Regarding this fact, militants have supported the Nigerian government's intensification of poverty and unemployment through their actions, which the Nigerian media have repeatedly labelled as 'crippling the economy'. From vandalising pipelines and wells, to the kidnapping of foreign employees of the oil companies. This research thus reiterates that the absence of social stability in the Niger Delta region motivates violent conflicts. Thus the permanence of the military officials in the region.

---

http://siteresources.worldbank.org/EXTWDR2011/Resources/6406082-1283882418764/WDR_Background_Paper_Stewart.pdf accessed 25 October 2016.

- **The Theory of Politically Motivated Conflicts**

Akin to the above analyses and reviews of economic and social motivated conflicts, this research thesis, following the analysis and review following the analysis of the codes and development of the theory in Chapters three, four and five, opts for the analysis of Stewart's theory on 'horizontal inequalities'. Important to note, however, is that Stewart's 'horizontal inequalities' theory relates to economic, social and political factors. The theory of 'horizontal inequalities' asserts:

> Conflict is based on the view that cultural differences that coincide with economic and political differences between groups can cause deep resentments that may lead to violent struggles.[98]

This research opted for the application of the 'horizontal inequalities theory' within the context of politically motivated conflicts only. The political route according to Brown and Stewart:

> Includes power at the top (e.g., the presidency, the cabinet), at lower levels (e.g., parliamentary assemblies, local government), in the bureaucracy at all levels, and in the army and the police. The relevant 'horizontal inequalities' are those that matter to people, and this varies across societies.[99]

The power dynamics revealed in this research thesis's theory reaffirms the role of levels of power, through the relationships between the indigenous peoples of the Niger Delta Region and the Nigerian government (and its military officials). Their relationship is structures in a manner that asserts inequality. Military actions, sanctioned by the Nigerian government, which have amounted to injustices and illegalities in the Niger Delta region matters to the indigenous peoples living in this region. Thus places the variety of relationships noted by Brown and Stewart within context for the purpose of this research's assertions and theory. In understanding relationships of power, this research's assertions on corrupt relationships prompted by the negative influence between the Nigerian government, the Nigerian media, and intervention agencies in Niger set in. These relationships have motivated violent conflicts in the Niger Delta region in instances where the indigenous peoples have challenged fantasised facts about their struggles and demands, and also where the peoples have rejected corrupt relationships that although may provide temporary solutions, have no valid end visions for the benefits of the peoples.

---

[98] Brown and Stewart (n85) 7.
[99] Brown and Stewart (n85) 8.

Political movements become violent based on the responses to demands made by groups of peoples, where governments meet these demands with resistance, violent conflict is the expected outcome.[100] Brown and Stewart here states:

> It is important to note that relatively rich groups may instigate conflict, as well as relatively poor groups. The relatively rich do so mainly to preserve their riches (and/or power) for themselves, whilst the relatively poor do so out of a sense of injustice with the intention of achieving some redistribution.[101]

The above assertions in relation to the indigenous peoples of the Niger Delta region and militarisation is reaffirmed in this research thesis's theory which acknowledges indigenous reactions to the Nigerian government's continuous obliviousness to their demands and struggles. This obliviousness, as noted in this research's theory, emanates from the government's aim to develop the national economy through narrow bids to expropriate resources found on indigenous lands without permission, bypassing consultation for the purpose of fractioning profits. The government in this research are thus preserving 'their' riches. Tactics employed by the Nigerian government are equated to resistance. Resistance through the use of military force employed by officials who repeatedly exercise their statutory functions outside best standard practices. These military officials have committed injustices and illegalities against these peoples; where violent conflicts arise from such levels of oppression and repression the political theory of conflict purports that resistance is a valid reaction by those lower in the chain of power.

- **Zartman's Theory of Ripeness**

For the furtherance of peace in areas where the scales of violent conflicts are immense, suggestions have been made for the inclusion of political, economic and social policies that would at the very least reduce these conflict to group inequalities.[102] According to Zartman:

> Whilst most studies on peaceful settlement of disputes see the substance of the proposals for a solution as the key to a successful resolution of conflict, a growing focus of attention shows that a second and equally necessary key lies in the timing of efforts for resolution.[103]

---

[100] Brown and Stewart (n85) 9.
[101] Ibid.
[102] Brown and Stewart (n85) 20.
[103] Zartman (n86).

Following the above assertion, he proposed the two conditions within the theory, which are the level of pain and a way out. According to Zartman:

> These conditions are based on the notion that when parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them (although not necessarily in equal degree or for the same reasons), they seek an alternative policy or Way Out.

The idea around theory of ripeness reiterates this research thesis' assertions and theory that in order for the Nigerian government to protect the indigenous peoples of the Niger Delta region should adopt the actionable-policy recommendations proposed in this thesis. This research thesis, however, posits that there is a flaw in this concept/condition of ripeness regarding the stated levels of pain, which according to Zartman is the motivation of actions of policies when felt by the parties involved in conflicts. In presenting this, Zartman's theory fails to encompass cases of marginalised groups, whose oppressors do not essentially feel any degree of pain, but the struggles of these groups have amounted to levels of ripeness following the injustices and illegalities that they are being subjected to through acts of militarisation. This research's theory in explaining the social and legal motivations of the Nigerian government's decision to militarise the Niger Delta region reveals power dynamics and self-serving laws which ensures that in the oppression and repression of indigenous peoples in the Niger Delta region the Nigerian government is protected.

This protection however may be brought into questions, with reference to the activities of militancy, which although fantasised facts have influenced the levels of truths to its reports, posits a level of threat to the growth of the national economy through reports of vandalised pipelines and oil wells. The growth of the national economy as expressed in this research, is an unwavering ambition of the Nigerian government, who in bids to ensure that it is actualised have subjected the indigenous peoples of the Niger Delta region to decades of inhumane acts, violating their human rights and threatening their existence as peoples.

Activities of militancy also brings into question the painful effect that the inability to expropriate resources on indigenous lands would have on the Nigerian government. Resources found on indigenous lands in the Niger Delta region are the mainstay of the national economy.

The intensification of activities of militancy may arguable limit the Nigerian government's access to resources. This however is considered not to be a legitimate claim following the permanence of militarisation in the Niger Delta region, which this research's theory revealed to be a tool for containing challenges expressed by the indigenous peoples. Thus ensuring that the peoples remain silent amid the unjust and illegal acts of the Nigerian government. Following the above analysis, this research thesis accepts that there is a level of pain for the Nigerian government emanating from the threat to the national economy through militant activities in the region, this level of pain is however neutralised by the fact that the power dynamics of the State remains with the Nigerian government.

With regards to the way out condition, parties are required only to sense that there is a possibility to end conflict through negotiations, here they are not envisioned to have proposed solutions.[104] So lucid is this condition that the only factor required from the parties here are that they both exhibit the willingness to negotiated to being an end to conflicts. This research supports this condition, noting that evidence of willingness to end violent conflicts with the indigenous peoples of the Niger Delta region by the Nigerian government would elevate the effects of the recommended actionable-policies. As this research's theory is based on indigenous accounts and experiences, it may be said that it cannot fully assert that the Nigerian government are utterly unwilling to negotiate situations and accord indigenous peoples with the rights and demands that would end militarisation and violent conflicts in the Niger Delta region. The government's actions, however, following this research's theory that exposes an unrepentant circle of oppressors motivated by power dynamics, is concluded in this research thesis to not be open to the condition of a way out suggested by Zartman. Negotiation attempts by the Nigerian government through policies are weak and deeply flawed. The only negotiation known to the Nigerian government is that which ensures that their power positions are evident following their actions. In all of the above, it is necessary to reiterate that the concept of ripeness according to Zartman:

> Is only a condition, necessary but not sufficient for the initiation of negotiations; It is not self-fulfilling or self-implementing. It must be seized, either directly by parties or, if not through the persuasion of a mediator.[105]

---

[104] Zartman (n86).
[105] Zartman (n86).

This research therefore stands on the premise that, but for the equation of pains of parties involved in conflicts, and the inapplicability of the way out to the situation in the Niger Delta region following the oversight of this research being based on indigenous peoples' accounts and experiences, the concept of ripeness proposes a workable guide to conduct successful negotiations aimed at ending conflicts.

RAWLS' THEORY OF SOCIAL JUSTICE

The transformative framework of this research prompts researchers to be openly critical of the law and justice. The laws in Nigeria, especially those related to resource control and land rights violates the tenets of social justice and are inciters of violent conflicts and the illegal act of militarisation. There are numerous theories of social justice. This research thesis however, following the analysis of the codes and development of the theory in Chapters Three, Four and Five, opted for the analysis and review of Rawls' theory of social justice; 'justice as fairness'. This theory was an attack on John Stuart Mill's utilitarian principles. Rawls' theory of social justice, like the social contract theory of conflict analysed and reviewed above, is reported to have drawn inspiration from Immanuel Kant's social contract theory, and also John Locke and Jean Jacques Rousseau's social contract theories.[106] The two principles of justice, following Rawls' background of political instability, societal conflicts and economic inequalities, states:

> First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others. Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.[107]

Agboufa in quoting Pecorino, submits:

> The ideas of Rawls' philosophical work, developed to assists societies in ordering its affairs, have influenced lawmakers and Supreme Court decisions. Among many examples are the laws for providing equal access to opportunities for minorities and disabled people. Concluding that Rawls' theory remains the only philosopher to have given an in-depth explanation of distributive justice in which each person is to have an equal right to the most extensive total system

[106] (n94).
[107] J Rawls, 'A Theory of Justice' (The Belknap Press of Harvard University Press 1973) 4 http://faculty.ycp.edu/~dweiss/phl221_intro/Rawls%27%20A%20Theory%20of%20Justice%20selections%20annotated.pdf accessed 25 October 2017.

> of equal basic liberties compatible with a similar system of liberty and fair equality of opportunity for all.[108]

Following the above, Rawls' philosophy thus is essentially a medium from which the rights and duties in society's institutions are assigned, providing appropriate means for the distribution of the benefits and burdens of social cooperation.[109] The review and analysis of Rawls' theory is focused on the second principle, whose chief idea is that when distributing wealth and income in the society it is expected that everyone has some level of advantage, in doing so the offices and positions that regulates these wealth and incomes must be accessible to the general society, not a selected group of peoples.[110] Rawls' theory of social justice proposes: 'inequalities in the allocation of goods are permissible if and only if they work for to be benefit of the least well-off members of society'.[111] Rawls defines injustice as thus: 'inequalities are not to the benefit of all'.[112] Societies (the government) become responsible and should be held accountable where these inequalities which have not been to the benefit of the peoples, whether socially, politically, or economically, have equated to injustices. Important to not here is that the theory accommodates general positions, thus in addressing inequalities the Rawls' there are was no outline of inequalities that would admissible under the theory of justice.

This research thesis therefore submits that the challenges of the indigenous peoples living in the Niger Delta region is admissible under Rawls' social justice theory of 'justice as fairness'; this submission is solidified following the premise from which the theory was created, which was following political instability, societal conflicts, and economic inequalities. As is seen from this research's phenomenon, analyses, and theory, in addressing the Niger Delta region all of these factors are occur simultaneously in motivating the Nigerian government's decision to militarise the Niger Delta region. The power dynamics in the Niger Delta region stimulates injustices and illegalities, as revealed in this research's theory. These injustices and illegalities

---

[108] M K Agboufa, 'John Rawls' Maximin Principle: Implications for Distributive Justice in the Niger Delta Region' (2016) 5(6) International Journal of Innovative Research and Development 378, 379.
[109] E O John, 'A Critique of John Rawls' Social Justice Theory and the Fate of Nigeria's Politics in the 21st-Century and Beyond' (2014) 28 Journal of Law, Policy and Globalization 12, 12.
[110] Ibid.
[111] http://www.yourarticlelibrary.com/economics/social-justice-7-theories-of-social-justice-explained/39830 accessed 26 October 2017.
[112] N Cropp, 'The Social Utility of Rawls' Theory of Justice: Can it help us to avoid Unjust Systems?' (1998) UCL Jurisprudence Review 188, 189.

are visible through their simultaneous functions with the political structure of the state which highlights discrimination from both ethnic majorities and the government against the indigenous peoples of the Niger Delta region. They the resulting effects of these injustices and illegalities that have led to the militarisation of the Niger Delta region which the Nigerian government is revealed to use as a tool for containing indigenous challenges for rights. The Nigerian government, in this research's theory, is thus revealed to silence the indigenous peoples of the Niger Delta region amid injustices. According to John:

> It is only social justice that can restrain the urge- tendency for the majority ethnic groups to dominate and marginalize the minority. In emphasizing the need for social justice, it is necessary to observe that social conflicts arise when groups possess or have confirmed the suspicion that the state has short-changed or deprived them of accruing social benefits, rights and entitlements. In Nigeria, the truth is that some have been denied their rights and privileges. The Niger Delta people are a case in point.[113]

According to John, Rawls submits: 'no matter how efficient or well-arranged a social institution is, it must be reformed or abolished if it is unjust.'[114] John submits:

> Rawls' social justice theory can be used to correct the injustices perpetrated by certain leaders. The readily example is in the case of the issue of military genocide in Odi (Rivers State) in 1999.Odi and South-South communities have contributed to the Nigerian economy and development more than any other community or region in Nigeria; in spite of the South-South outstanding contributions than any other region in Nigeria, what has been the reward by each succeeding government? In Ogoni-land, the place was devastated during the dreaded era of Sani Abacha. At the end, nine of the leaders were murdered by the Federal government of Nigeria.[115]

This research's theory thus supports the submissions of Rawls' theory of social justice, maintaining that the power dynamics in the Niger Delta region is a detrimental effect to the indigenous peoples in the region, which have seen their struggles being unnecessarily elongated. Elongated by the Nigerian government's narrow unwavering ambition to 'supposedly' develop the national economy through bids to expropriate resources found on indigenous lands without interruption, bypassing consultation whilst fractioning the profits attained from these resources. The power dynamics in the Niger Delta region is thus unjust and prompts militarisation, and must, as submitted in this research's actionable-policy

---

[113] John (n109) 17-18.
[114] John (n109) 16.
[115] John (n109) 19.

recommendations, eliminated through the reconstruction of the political structure of the Niger Delta region (see Recommendation D).

THE CONCEPT OF RESOURCE CONTROL AND THE 'RESOURCE CURSE'

The history of the Niger Delta is characterized by agitation for resource control.[116] Resource control has been defined numerous times; the majority of these definitions however somehow present a wrong perception of what resource control means. For the purpose of this research, resource control means that all States in Nigeria will develop their own natural resources; it is, however, vital to examine where this understanding is drawn from. Oluduro defines resource control as:

> The ability or capacity to authorize or direct the course of exploitation, or the right to manage the revenue accruing from the oil exploitation or other natural resources and enjoy its benefits.[117]

Furthermore, resource control was defined at the Third Summit of the 17 Nigerian Southern States Governors in Benin, as:

> The practice of true federalism and natural law in which the federating units express their rights to primarily control the natural resources within their borders and make agreed contribution towards the maintenance of common services of the Government at the center.[118]

The concept of resource control in Nigeria is full of contradictions that have bred violent conflicts. Following this research thesis's assertions and theory resource control is equated not to mean the desire of indigenous peoples to 'control' the crude oil, which in reality should belong to them, but following the power dynamics and self-serving laws of the State, belongs to the Nigerian government. What the indigenous peoples of the Niger Delta region are probing for following their demands is some level of control over the expropriation of resources found on their lands, and the fair fractioning of profits obtained from these resources. On the premise of distrust, that behind these demands what the indigenous peoples are really demanding is

---

[116] R Ako, 'Resource Control in the Niger Delta: Conceptual Issues and Legal Realities' (May 2012) http://www.e-ir.info/2012/05/25/resource-control-in-the-niger-delta-conceptual-issues-and-legal-realities/ accessed 17 September 2017.

[117] O Oluduro, *Oil Exploitation and Human Rights Violations in Nigeria's Oil Producing Communities* (Intersentia Publishing Ltd 2014) 98.

[118] S Azaiki, *Oil, Politics and Blood: The Niger Delta Story* (Y-Books 2006) 296.

100% control of resources found on their lands, the Nigerian government continually rejects the call for resource control. This word 'control' can be negatively construed; in this instance, however, this is not the case. What the indigenous peoples of the Niger Delta seek is benefits from the resources found on their lands. They seek to enjoy access to the resources and its economic values, the decades of struggle over resources found on their land has been about this and not depriving the Nigerian government of the development of the national economy.[119] Noteworthy is the fact that issues of resource control are not confined to Nigeria, but have faced controversy around the world, amongst developed and developing countries. For example, Crommelin identifies resource control struggles in Australia.[120] Resource control issues are not new to indigenous communities around the world.

This research's theory maintains that the self-serving laws of Nigeria are the driving force of agitation for resource control in the Niger Delta region. Successive governments in Nigeria have been evidenced to use the laws of the State to control lands and resources in indigenous communities.[121] In most developing countries in Africa the ownership and right of control over natural resources are vested in the State; Nigeria follows suit in this. There is reluctance in these African countries to provide indigenous communities with rights over resources found on their lands. Section 44(3) of the 1999 Constitution and other Nigerian legislation, such as the Land Use Act 1978 and the Petroleum Act 1969, show that true federalism has been jettisoned in favour of an over-centralized control of Nigeria's resources.[122] This dates as far back as 1946, prior to Nigeria gaining her independence. Section 3(1) of the Minerals Ordinance of 1946 vested in the Crown the entire property in and control of all mineral oils, on, under or upon any lands in Nigeria, and on all rivers, streams and watercourses throughout Nigeria.[123] Ako suggests the need for the amendment of the legal frameworks, he stated:

> The amendment of these laws will provide local communities with the opportunity to participate in decision-making processes concerning their land and natural resources, while providing access to legal avenues to resolve matters of dispute.[124]

---

[119] Ako (n116).
[120] M Crommelin, 'Mineral Exploration in Australia and Western Canada' (1987) 9 Journal of Energy and Natural Resources Law 3.
[121] Ako (n116).
[122] Oluduro (n117) 102.
[123] The Minerals Ordinance of 1946.
[124] Ako (n116).

This research's assertions, theory and actionable-policy recommendations reinforces Ako's suggestion, submitting that there is need for these laws, who by their very nature are discriminatory towards the indigenous peoples living in the Niger Delta region, to be revisited and amended (See Recommendation A). Within these amendments it is stressed that the indigenous peoples should be provided with some level of control over the resources found on their lands, that goes beyond the inconstant provisions of the 13% derivation fund. The inconsistency with the 13% derivation fund expressed over decades of military and 'supposed' democratic governments have motivated the Nigerian government's decision to militarise the Niger Delta region. This emanates from the fact that, despite federal and military presence in these oil-producing areas, there are no effective economic opportunities for the indigenous communities whose lands are being destroyed following the government's unwavering commitment to 'supposedly' develop the national economy.

On the other hand, following Ako's suggestions there are fears that control over resources being shifted from Federal to State control would incite problems, in that if States assume the role then local governments are likely to agitate for further control. This is following the ethnic divides and subversive relationships that the demands and struggles of the indigenous peoples living in the region have birthed, hence continued violent conflicts and agitation. Agitation for further control would arise where the communities challenge the local government, families challenge communities, and individuals within families challenge each other.[125] Examples are seen in communal and tribal conflicts in the South-South zone of the Delta State; more recently there was the conflict between the Itsekiris and the Ijaws of the Gbaramatu Kingdom over the land that the EPZ (Export Processing Zone) project is to commence on, concerning who should control management of the resources, employment and revenue derived throughout the duration of the project.

Furthermore, Ako argues against States' control, saying that even if it were granted, the States of the Niger Delta lack the capacity to implement resource control.[126] What governments and multinational corporations portray is that greed and personal enrichment motivate resource-

[125] Oluduro (n117) 105.
[126] C Obi and A S Rustad, *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro Violence* (Zed Books 2010) 11.

based conflicts. Ako and Oluduro argue that the agitation for resource control shifts more towards a guise which local actors within the Niger Delta region seek to take on, or entrench themselves in, as part of the elite.[127] Following the above, this research thesis stresses the need for this control over resources to be administered to the indigenous peoples themselves, bypassing State's control which following the power dynamics of within the Nigerian government would equate federal control. In doing so, there is need for the Nigerian government to reverse its position on the United Nations Declaration for the Rights of Indigenous Peoples (UNDRIP) 2007 (See Recommendation C).

Agitations and violent conflicts over control of natural resources have come to mean that what should have been a blessing to the peoples of the Niger Delta in the form of natural resources is now seen as a 'curse'. Tarr opined: 'nowhere on Earth has the resource 'curse' been demonstrated with such profound consequences than in the Niger Delta.'[128] This 'resource curse' in the Niger Delta region is apparent in the region's history of environmental terrorism, corruption, and economic mismanagement of resource funds.[129] These indigenous peoples are crying out against dislocation of the economy and degradation of their environments, and also for compensation, retribution, some control of their resources, and a fair treatment of their people. Giordano argued:

> The post-colonial world created a new paradigm, where countries endowed with natural resources are at greater risk of internal conflict for a variety of reasons, including exposure to price shocks, corruption, availability of finances for rebel groups, and incentives for succession.[130]

This research thus maintains that resource control is closely linked violent conflicts, militarisation and insurgency. Obi and Rustad argue that what has been experienced by the indigenous peoples has been the State's military repression, which has dialectically fed into the

---

[127] A Rhuks and O Oluduro, 'Identifying Beneficiaries of the Un-Indigenous Peoples' Partnership (UNIPP): The Case of the Indigenes of Nigeria's Delta Region' (2014) 22(3) African Journal of International and Comparative Law 374.
[128] C Tarr, '21st Century 'Resource Control' Insurgencies: The Case of the Niger Delta' (October 2011) http://www.e-ir.info/2011/10/09/21st-century-resource-control-insurgencies-the-case-of-the-niger-delta/#_ftn20 accessed 18 September 2017.
[129] A I Gedicks, *Resource Rebels: Native Challenges to Mining and Oil Corporations* (Southend Press 2001) 50.
[130] M F Giordano, M A Giordano and A T Wolf, 'International Resource Conflict and Mitigation' (2005) 42(1) Peace Research 51.

militarisation of the responses from sections of Niger Delta region.[131] These responses from sections of the Niger Delta region have led to the labelling of Niger Deltans as militants; Ikelegbe categorizes these militants as insurgent.[132] For communities such as the Ogoni, the absence of any substantial reinvestment of multi-billion dollar oil revenues into local infrastructure provides a key rallying cry for the insurgent cause.[133] The acts and rhetoric of the Movement for the Emancipation of the Niger Delta (MEND) have led to insurgency; these include attacks on Shell's offshore Bonga oil platform attracting the attention of western powers.[134] Authors Ukiwo,[135] and Ukeje[136] argue that complications created by the nature of states response to these crises is what has fuelled the conflict over resource control. Ukiwo further submits: 'alienation and despair of the indigenous peoples are at the heart of the violent conflicts in the Niger Delta region.'[137]

Furthermore, Osaghae, in his quantitative study into 'youth militias, self-determination and resource control struggles in the Niger Delta Region' identified violence as the preferred method of struggle in the region, the region's past has proven violence to be somewhat effective. Many of the indigenous peoples are ready to continue to utilize every available action and measures, including violence, sabotage, and support for militias, in pursuit of the struggle and to persist until there is a solution to the region's problems.[138] This research's theory and actionable-policy recommendations thus supports the assertions of the concept of resource control and the 'resource curse'. In doing so, reference is made to Collier and Hoeffler's arguments on the agitation of violent conflicts motivated by greed or grievances. This research thesis reiterates that the concept and resource control and the resource curse amount to legitimate grievances not greed that have thus motivated violent conflicts in the Niger Delta region. These violent conflicts birthed form legitimate challenges however continue to provide the Nigerian government with justifications of their decision to militarise the Niger Delta

---

[131] Obi and Rustad (n126)12.
[132] A Ikelegbe, 'Civil Society, Oil and Conflict in the Niger Delta Region of Nigeria: Ramifications of Civil Society for a Regional Struggle' (2001) 39(3) Journal of Modern African Studies 437-469.
[133] Gedicks (n129) 42.
[134] Obi and Rustad (n126) 10.
[135] U Ukiwo, 'From 'Pirates' to 'Militants': A Historical Perspective on Anti-State and Anti-Oil Company Protests in the Western Niger Delta: The Case of the Ijaw of Warri' (2007) 106 African Affairs 587-610.
[136] C Ukeje and W Adebanwi, 'Ethno-nationalist Claims in Southern Nigeria: Insight from Yoruba and Ijaw Nationalism Since the 1900s' (2008) 31(3) Ethnic and Racial Studies 563.
[137] Ukiwo (n135).
[138] E Osaghae, A Ikelegbe, O Olarinmoye and S Okhomina, 'Youth Militias, Self Determination and Resource Control Struggles in the Niger Delta Region of Nigeria (2008) Research Report Consortium for Development Partnerships (CDP) 1, 77.

region. This research's theory maintains that militarisation is a tool used in containing the challenges raised by the indigenous peoples of the Niger Delta region.

THE PRINCIPLE OF SELF-DETERMINATION

The principle of self-determination, and its position as a right available to indigenous peoples around the world, is regarded as one of the most controversial issues of international law.[139] According to Tolstykh: 'the principle encompasses the process of decolonization, and the protection of human rights and democracy,'[140] all of which are essential to the general survival of indigenous peoples all over the world. So vital are they, that following years of struggles of indigenous peoples to have their rights recognized, the principles were included as rights in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007, the most significant document created containing indigenous peoples' rights to date. Prior to the UNDRIP 2007, Castellino and Gilbert noted:

> The right to self-determination was directly linked to human rights agenda. Enshrined in Articles 1 of both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant Economic, Social and Cultural Rights (ICESCR), it is considered essential before any other rights can be recognised.[141]

Gayim notes: 'self-determination is central to all claims of indigenous peoples; it is an important universal principle that can hardly be challenged.'[142] This, however, does not mean that accepting it into law has not come without questions. Barelli opines that the rights of indigenous peoples to self-determination, represent one of the most controversial norms of international law.[143] This controversy surrounding the principle of self-determination comes was evident before and after the UNDRIP 2007 further developed on the right through its provisions under Article 3; this Article explicitly provides that indigenous peoples have a right to self-determination, by which the peoples have the right to freely determine their political

---

[139] V Tolstykh, 'Three Ideas of Self-Determination in International Law and the Reunification of Crimea with Russia' (2015) http://www.zaoerv.de/75_2015/75_2015_1_a_119_140.pdf accessed 19 September 2017.
[140] Ibid.
[141] J Castellino and J Gilbert, 'Self-Determination, Indigenous Peoples and Minorities' (2003) 3 Macquarie Law Journal 155, 155.
[142] E Gayim, 'The United Nations Law on Self-Determination and Indigenous Peoples' (1982) 51(1) Nordic Journal of International Law 53, 55.
[143] M Barelli, 'Shaping Indigenous Self-Determination: Promising or Unsatisfactory Solutions' (2011) 13 International Community Law Review 413.

status and freely pursue their economic, social and cultural development.[144] In noting this, Kingsbury, prior to the adoption of the UNDRIP 2007, stated:

> Self-determination has long been a conceptual morass in international law, partly because its application and meaning have not been formulated in agreed texts, partly because it reinforces and conflicts with other important principles and specific rules, and partly because the specific international law practice of self-determination does not measure up well to some of the established textual formulations.[145]

The controversies and questions clouding self-determination rights for indigenous peoples in Nigeria arise from the uncertainty surrounding the meaning and implications of the provision under the Declaration. This research maintains that these controversies in Nigeria is a resulting effect of the fact that there are two types of self-determination: external and internal, and the understanding of the separation of these two types have not being an easy task for both the Nigerian government and the indigenous communities in the Niger Delta region. This inability to distinguish between the two types has evoked fears that indigenous peoples having the right to self-determination would result in secession. Castellino and Gilbert asserts:

> The classical view of self-determination understands nations to be collections of individuals who make the rational decision to join together to form a society. Self-determination can be expressed through procedures established by the institutions of government in the society. Outside these procedures, self-determination is nothing more than 'destructive, irrational passion'.[146]

It is thus important to review and analyse the understand the distinction of the external self-determination and internal self-determination, this is because this research's assertions, theory and actionable-policy recommendations stresses the benefit that the recognition of this right would have in bringing an end to militarisation in the Niger Delta region (See Recommendation C). In presenting this distinction, following her reviews of the relevant self-determination principles and texts in international law, Abdullah, in pointing to colonisation, asserted:

> The external aspect of self-determination requires action from and imposes obligations on States to support and facilitate a people's aspirations to reach independence. Conversely self-determination outside the context of

---

[144] H Quane, 'New Directions for Self-Determination and Participatory Rights', in S Allen and A Xanthaki (eds) *Reflections on the UN Declaration on the Rights of Indigenous Peoples* (Sage Publishing 2011) 260.
[145] B Kingsbury, 'Reconciling Five Competing Conceptual Structures of Indigenous People's Claims in International and Comparative Law' (2002) 13(59) Journal of International Law 1and Politics 89,247.
[146] Castellino and Gilbert (n141) 157.

> decolonisation has an internal nature that consists of a people's right to freely pursue their economic, social and cultural development, ideally through democratic governance.[147]

This research's assertions, theory and actionable-policy recommendations accepts the above distinction based on colonisation, reiterating that the demand of self-determination by the indigenous peoples of the Niger Delta region is matched with their demands for some control over resources found on their lands. Which would in turn mean that they have decision making status in the progression of the general economic, social, and political development of their communities, which under the supervision of the Nigerian government has been annihilated.

The fears of secession emanating from the rights of self-determination, as expressed by the Nigerian government, is based on the demands for external self-determination, which is not what the indigenous seek. Barelli in support of the Nigeria government asserts that States fear of secession following the claim of self-determination rights is legitimate, he, however, reiterated that indigenous peoples following their moral and historical perspectives have strong reasons to claim the right of self-determination.[148] During the process of decolonization, self-determination was generally equated with independence. More precisely, it was understood as the right of peoples of non-self-governing territories and peoples subject to alien subjugation, domination and exploitation, to create their own State.[149] Post colonialism, this fear is still expressed by many States, including Nigeria, who believe that allowing for the right of self-determination would mean a threat to their territorial integrity; one cannot help but wonder to what extent this statement is true.

In being considerate over their fears of this threat of secession, this research notes that the Nigerian government following the nation's past relations with Biafra and their current relations with the Indigenous Peoples of Biafra (IPOB) may be justified for their fears. This discussion of these past relations are however not within the premise of this research thesis.

---

[147] M Abdullah, 'The Right to Self-Determination in International Law: Scrutinizing the Colonial Aspect of the Right to Self-Determination' (Master Thesis, University of Goteborg 2006) 32 https://gupea.ub.gu.se/bitstream/2077/1888/1/gupea_2077_1888_1.pdf accessed 25 October 2017.
[148] Barelli (n143) 419.
[149] B Kingsbury, 'Self-Determination and Indigenous Peoples', ASIL Proceedings (April 3 1992) 383.

The Nigerian government however needs to substantially draw distinctions between the claims and demands of the indigenous peoples in the Niger Delta region and those of the indigenous peoples of Biafra. It was on the basis of this fear of secession that Nigeria made the decision to abstain from voting for the UNDRIP 2007. On the other hand, Nigeria's narrow bid for the development of the national economy prompted by their expropriation of resource and act of fractionising profits, reflects a stance that sees their rejection of the right of self-determination as being directly linked to their method of resistance using militarisation. Militarisation is thus uncovered to be a device used in silencing indigenous challenges amid injustices and illegalities conducted by the Nigerian government. In line with this, Sargent and Melling argue that States' fear of indigenous secession has no realistic basis and is groundless; they, in the article asserts:

> States' fear of losing territorial integrity through indigenous secession is not at the heart of State resistance to indigenous self-determination. Rather, the resistance of States to indigenous self-determination is located in another source - modern State identity as liberal States.... accommodation by States of indigenous rights means a reformulation of State identity away from modern Jacobin liberalism, something States view as deeply threatening, therefore it is unlikely to occur.[150]

Indigenous peoples in the Niger Delta have sought protection through the principle of self-determination, as a result of exclusion, exploitation, discrimination and disadvantage, particularly in relation to developmental attention, and resource contribution and distribution.[151] According to Coulter, the right of self-determination in the UNDRIP 2007 is, or will become, customary international law, even though a few States may continue to oppose it.[152] This is because there is growing awareness among States and others that self-determination for indigenous peoples is a good and pragmatic idea that will contribute to peaceful development and good government. Nigeria needs to be jolted into adopting this awareness. This research thesis' actionable policy recommendations maintains that the Nigerian government in taking the step of reversing their stance on the UNDRIP 2007 should accept the provisions of the right to self-determination for the indigenous peoples in the Niger Delta region. They in doing so may state explicitly that what they are allowing for is the right

---

[150] S Sargent and G Melling, 'Indigenous Self-Determination: The Root of State Resistance' (2012) 24 Denning Law Journal 117.
[151] Osaghae, Ikelegbe, Olarinmoye and Okhomina (n138) 8.
[152] T R Coulter, 'The Law of Self-Determination and the United Nations Declaration on The Rights of Indigenous Peoples' (2010) 15(1) UCLA Journal of International Law and Foreign Affairs 13, 27.

to internal self-determination (Recommendation C). What this would mean for the indigenous peoples living in the Niger Delta region is the end of militarisation.

What the struggle for self-determination is, is one for development, resource benefits, inclusions and representations, and to fight against economic deprivation, neglect and the effect attached to petroleum exploitation activities.[153] Secessionist fears are therefore not valid claims from which the Nigerian government should continually base their refusal to accord the indigenous peoples of the Niger Delta region some level of rights. These rights if recognised would ensure that the peoples are protected from the illegal act of militarisation. This research's theory accepts the protection of human rights and democracy that the principle of self-determination encompasses. It also stresses the importance of the positive reflection of indigenous peoples' voices in issues involving their struggles and demands to evidence a change in the Nigerian government's opinion that self-determination is a threat. The theory asserts that the principle of self-determination is a protective mechanism that would bring an end to the militarisation of the Niger Delta region, and it should be welcomed by Nigeria.

SUMMARY

The Niger Delta region was once described by analysts as; over-policed and under-secured; the militarisation of the region is flawed and counter-productive, the government forces' frequent failure to protect the indigenous peoples of the Niger Delta region creates more insecurity.[154] The militarisation of the Niger Delta region is detrimental to the entire existence of its indigenous peoples. Answering this research thesis question within the transformative paradigm, which stresses power issues as being the guiding force in cases of marginalization, discrimination, oppression, military repression, and human rights violations, is, following a background analysis of the phenomenon, justified. Applying the constructivist grounded theory methodology allowed for the provision of a unified theoretical explanation developed from participants' (indigenous peoples') accounts and experiences, and interpreted by the researcher.

---

[153] Ibid.

[154] B Amunwa and M Minio, 'Counting the Cost: Corporations and Human Rights Abuses in the Niger Delta' (October 2011) 12-13 http://platformlondon.org/nigeria/Counting_the_Cost.pdf?utm_medium=email&utm_campaign=Nigeria+report&utm_content=Nigeria+report+CID_6addf4ad4ab7379a0625f65cb36b120e&utm_source=campaign+monitor&utm_term=new+report accessed 14 February 2017.

The subjective nature of this research thesis is successfully justified in the Methodology chapter, within which the process of collecting, analysing and theorizing the data gathered was discussed. Following this, a presentation of the codes is outlined, followed by the theory developed from the codes and the proposed actionable-policy recommendations geared towards the legal protection of the indigenous peoples in the region from militarisation.

CHAPTER TWO

USING CONSTRUCTIVIST GROUNDED THEORY METHODOLOGY WITHIN THE TRANSFORMATIVE PARADIGM: A DETAILED ANALYSIS OF THIS RESEARCH THESIS METHOD

INTRODUCTION

The purpose of this chapter is to provide a detailed analysis of the approach that was applied in answering the research thesis questions. In so doing justifications for the choice of approach is presented. Every research is unique to each researcher; researchers' choice and mode of carrying out research thesis/projects vary from one to another. However, there are standard set rules that researchers are required to apply as guidelines when carrying out their research. These set standards are referred to as paradigms.[1] Paradigms set out the intent, motivation for and expectations of the research. They essentially must be presented at the first step in the research, because paradigms determine the data collection and analysis methods that will be appropriate for the research.[2]

This research thesis's questions were created and answered under the premise of the transformative paradigm, by applying the constructivist grounded theory methodology. The combination of both the transformative paradigm and constructivist grounded theory methodology applied in this socio-legal research thesis is the first of its kind, hence is an original contribution to knowledge. The combination of these has been encouraged by the founder of the transformative paradigm, Donna Mertens, and the founder of the constructivist grounded theory method, Kathy Charmaz, in researches into social justice inquiry, such as this.[3] The combination and application of both is of particular importance to this research thesis's purpose, which from the exploration of indigenous peoples' accounts and experiences ultimately proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation. This is so because of the subjective nature of both the paradigm and method choice, which pays particular reference to marginalized peoples such as the indigenous groups of the region. In line with the

[1] E G Guba and Y S Lincoln, 'Competing Paradigms in Qualitative Research' in N K Denzin and Y S Lincoln (eds), *Handbook of Qualitative Research* (Thousand Oaks Sage 1994) 107.
[2] Ibid.
[3] K Charmaz, 'Grounded Theory Methods in Social Justice Research' in N K Denzin and Y S Lincoln (eds), *Strategies of Qualitative Enquiry* (4th Edition, Sage Publications 2013) 293-294.

research aim, this chapter provides a detailed analysis of the justification of the research purpose within the premise of the transformative paradigm; it also includes a detailed justification, analysis and breakdown of the research thesis choice of using the constructivist grounded theory methodology to gather, analyse, and theorize data uncovered from the elite interviews and the documents within an academically justifiable empirical method.

As this research thesis includes empirical data analysis in the face of elite interviews and documents, the disagreements surrounding the use of empirical legal research necessitated a detailed defence of the choice to base this research thesis on empirical legal scholarship. The need to further provide a defence for the choice of empirical legal research arises from the 2002 critique by two social scientists, Lee Epstein and Gary King (the rules of inference), which is often taken to represent the dominant view on empirical legal research. Hence, the dedication of a detailed analysis explaining the rules of inference, how the rules were adapted into this research thesis, and how this research thesis successfully avoided the criticisms attached to empirical legal research methodology.

Through the presentation of this chapter, as with other chapters in this research thesis, the methodological process and justifications for choices made may in some instances be described in 'first person' terminology, hence the use of I, etc. This choice has been academically justified,[4] and best suits this research thesis in that it will assist readers in understanding my original contributions and choices for this research thesis, which are key to the satisfaction of this academic piece of writing.

SUMMARY OF METHOD USED TO OBTAIN AND ANALYSE DATA

The analysis of data from both elite interviews and documents in this empirical research methodology, as mentioned above, was done using the constructivist grounded theory methodology. The elite interviews consisted of six (6) participants/individuals who are indigenous and held/hold key positions in the Niger Delta region, positions such as monarchs (Regents/Kings), lawyers, honourable (high officials), and community leaders. All interviews

[4] See Generally C Webb, 'The Use of the First Person in Academic Writing: Objectivity, Language and Gatekeeping' (1992) 17(6) Journal of Advanced Nursing 747.

were semi-structures, held face-to-face in the participants' offices, spanning seven (7) weeks. Although all of the interviews were recorded, notes were taken to support the recordings. The data obtained from the interviews were individually transcribed without the use of software programmes, initially coded using the line-by-line method, then axial coded together, as presented in the chart in Appendix A, titled Interview Axial Codes. Relational statements were then developed from the axial code chart. As all codes from the interviews were then combined, it is important to note that the relational statements developed from the analysis do not represent a single interview, but all the interviews in my interpretation as the interviewer/researcher.

The documents analysed are in a listed format in Appendix C, titled Document Axial Codes. The documents were selected following extensive research into the Niger Delta region and recommendations from interview participants. In the initial stages a wide range of data, from a variety of sources were looked at; these documents were then narrowed down based on their creative roots, following the process and completion of the interviews. In doing so the constant comparative process in the constructivist grounded theory method was applied. Documents analysed were following this sorted into three types of document. The first type, official documents derived from the State were classed based on reports and recommendations correlated by the government on the situation in the Niger Delta. The second type official documents derived from indigenous organisations were in the form of petitions, demands and recommendations presented by the indigenous peoples in the Niger Delta region. The third and final types, documents from mass-media outputs, were in the form of various independent newspapers in Nigeria. All documents analysed, as noted above, can be found in Appendix C. A more detailed presentation of the documents' creators, target audience and intent is provided in the section below justifying the selection and use of documents as a source of data in this research thesis.

All of the documents analysed, like the interview data, were analysed using the constructivist grounded theory methodology. From the initial coding stages, the government reports/recommendations were analysed together; the same applied to the indigenous petitions and the newspapers. As with the interviews, each document type, following the initial codes, were axial coded together and presented in a chart in Appendix B labelled Documents Axial Codes. For official State documents B3, Official indigenous documents B2, newspapers B3.

From these axial codes relational statements were developed for each document type (one for official government documents, one for indigenous organization documents, and one for media house reports).

DEFENCE FOR EMPIRICAL LEGAL RESEARCH – ADAPTING SOME CHARACTERISTICS OF THE RULES OF INFERENCE

Research is essentially a systematic investigation to find answers to a problem. In recent years, the importance of empirical work in legal studies-based research has been repeatedly invoked;[5] 'joining the ranks of the mainstream within the legal academy.'[6] The legitimacy of using empirical research methods to study international law is at last well established.[7] The transformative effect of empirical research enables researchers to develop a variety of analytical frameworks for understanding the practice of international law, answering the how and why questions.[8] Empirical research creates tools that allow policymakers to make decisions using empirical data about States' human rights practices.[9]

Robert Gordon in 1993 labelled empirical social research as: 'the most potentially fruitful branch of legal studies.'[10] This is particularly important for this research's purpose, which from the exploration of indigenous experiences proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation. In spite of its development, legal researchers have been highly critical of researchers' application of empirical legal research, especially with researches published in law reviews. Before I proceed to discuss one of such criticisms, it is important to note that regardless of the structural limitations, empirical legal research has arrived as a research genre and will continue to flourish.[11]

---

[5] See generally L Epstein and G King, 'The Rules of Inference' (2002) 69(1) The University of Chicago Law Review 1.
[6] M Heise, 'The Past, The Present, and Future of Empirical Legal Scholarship: Judicial Decision Making and the New Empiricism' (2002) 733 Cornell Law Faculty Publications 819, 819.
[7] E Baylis, 'Empirical Approaches to International law: The Transformative Potential of Rigorous Empirical Research' (2010) 104 American Society of International Law 31, 31.
[8] Ibid.
[9] Baylis (n7) 31-32.
[10] R W Gordon, 'Lawyers, Scholars, and the 'Middle Ground'' (1993) Michigan Law Review 2075, 2085.
[11] Heise (n6) 850.

One of such criticisms, and most probably to date the strongest, came from Epstein and King in their article titled 'the rules of inference'. The authors, based on a review they conducted on legal literature, claimed: 'an immense body of work in empirical legal research/scholarship was deeply flawed.'[12] They were of the opinion that productive research practices are yet to be applied by those in the legal profession, despite the fact that those in the profession have shown legitimate interest in learning how to conduct empirical research. Both authors claimed that legal researchers pay no attention to methodology especially in law reviews; hence the information in empirical legal research is inaccurate and deceptive.[13] Legal scholarship, especially those assessing the likely consequences of particular changes in public policy, can through judges and legislators, amongst others, have the potential to influence public policy; hence they should not be inaccurate and defensive.[14]

Epstein and King insist that the above opinion on the influence of public policy would remain even in cases where the research is geared primarily to other academics, as there is an obligation to produce work that is reliable. Contrary to concerns having been raised about policymakers' reluctance to look into works published in law journals, it has been established: 'legislators, judges, and others who craft law and make policy do refer to law journal publications and such publications at the very least justify policy choices.'[15] Hence there is a need for this research thesis to pay particular attention to some of the characteristics of the 'rules of inference' proposed by Epstein and King as this research's aim is involved actionable-based policy recommendations created for the legal protection of the indigenous peoples in the Niger Delta region.

Epstein and King opined: 'empirical legal research that does not follow the time-honoured rules of inference is unlikely to fulfil its intended purpose.'[16] It was following this opinion that they developed 'the rules of inference'. These rules are essentially sets of rules and guidelines created to improve empirical research in legal studies and the quality of legal research, ensuring that researchers, in their attempts to conduct empirical legal research become more aware of

---

[12] Epstein and King (n5) 6.
[13] Ibid.
[14] Epstein and King (n5) 7.
[15] K Zeiler, 'The Future of Empirical Legal Scholarship: Where Might We Go From Here?' (2016-2017) 66 Journal of Legal Education 78, 85.
[16] Epstein and King (n5) 9.

the need to pay attention to methodology in legal studies.[17] These rules and guidelines are in place to enable those in the legal field: 'to contribute to a credible, valid, common, and, ultimately, more valuable research.'[18] Furthermore, legal scholars conducting empirical research are expected to profit from a greater familiarity with the rules of inference.[19] Researchers when conducting empirical research are expected to have a specific goal in mind about the collection of data and making inferences; they are expected to follow some general rules which should enable them to arrive at this goal, or at least arrive at the goal with some degree of confidence.[20]

Inferences are the resulting conclusions that are drawn from the legal world.[21] In conducting empirical legal research a key point to follow through on is the methodological underpinnings.[22] These rules of inference and guidelines suggested by Epstein and King cover a broad range of areas, from data collection, to methodology (quantitative or qualitative approaches), to describing observations, and to the primary goal of the research, which according to the authors is the inference, i.e. the process of using facts we know to learn about facts we do not know.[23]

Empirical research set out to accomplish; the amassing of data for the use of researchers or others, the summary of data so readers can comprehend what the phenomenon is about, and the making of inferences either descriptive or casual inferences which is the process of using data observed to learn about data to gather.[24] The mere defence of records should not stand in empirical legal scholarship, the translation of the information gathered should be of particular use to the researcher.[25] It was on the above note, they named two types of inference, descriptive and casual. Descriptive inferences are made by using facts we know to learn about facts we do not observe.[26] In descriptive inferences, researchers are prompted to identify the target of

---

[17] Epstein and King (n5) 10.
[18] Epstein and King (n5) 56.
[19] Ibid.
[20] Epstein and King (n15) 19.
[21] C L Boyd, 'In Defense of Empirical Legal Studies' (2015) 63 Buffalo Law Review 363, 365.
[22] Zeiler (n15) 81.
[23] Epstein and King (n5) 19-20.
[24] Ibid.
[25] Epstein and King (n5) 20.
[26] Epstein and King (n5) 29.

inference, omitting this step opens a Pandora box of ills, failure to follow this principle results in unnecessary criticism of research.[27] Research projects cannot be evaluated and will be unsuccessful without an unambiguously identified target of inference.[28]

Casual inferences occur where researchers set out to discover whether a factor or set of factors lead to an outcome or outcomes.[29] They involve using facts we do know to learn about facts we do not know.[30] Legal researchers, lawyers, the courts, and legislators according to Epstein and King, when they have deciphered the difference between the two types of inference, should then proceed to make causal inferences. This necessitates the goal of the research to be redefined as the research goes on, as was done in this research thesis. Researchers have the skill of generating useful, policy-relevant research topics; hence they are prompted not to change the object of their inferences where casual inference becomes difficult to uncover. Epstein and King suggest that in such instances, researchers should make the research question as precise as possible, reducing uncertainty and bias, ensuring that results of the research are communicated appropriately to readers.[31]

According to Epstein and King, and a more general requirement of researches and academia, the research questions should meet two criteria: first they should contribute to existing knowledge, and second they should have some importance for the real world.[32] They further insisted:

> Many questions asked by academics and others about legal phenomena do not meet these criteria. They, however, noted that on the one hand, because investigators can conduct rigorous research about any question no matter how narrow it may be or whether they are interested in it or no matter if it has no implications for the real world, the above criteria is not particularly problematic. On the other hand, where there is interest in the researchers' work in the community, the researchers will be able to answer questions analytically.[33] Empirical research is thus, a social enterprise.[34]

---

[27] Ibid.
[28] Epstein and King (n5) 30.
[29] Epstein and King (n5) 34-35.
[30] Epstein and King (n5) 36.
[31] Epstein and King (n5) 37.
[32] Epstein and King (n5) 55.
[33] Ibid.
[34] Epstein and King (n5) 47.

According to Epstein and King:

> Compliance with the rules of inference enhances the credibility of the research, but more importantly, by making connections with what has come before helps scholars avoid mistakes, skip rigorous reinventions of existing ideas, and find additional observable implications of their theories.[35]

Furthermore, the application of the rules of inference prompts researchers to follow the advice that research which engages existing scholarship ensures that someone will be interested in the results. If a body of literature is on hand, it indicates that the question is important to at least some others,[36] as reiterated in the literature review Chapter above. By exciting others, researchers benefit in that there is an increase in the chances that other investigators will examine their research question, re-evaluate their evidence from a new angle, or introduce further evidence of a closely related problem, the result being more specific knowledge about mutual concerns.[37] Following my adoption of some of the rules, as presented in a detailed sub-title above, this research thesis asserts that in paying attention to these rules, I conducted an academically justifiable methodology, free from mistakes and transparent enough to reflect my credibility as a researcher. The detailed account of my methodology in this chapter develops an engaging process of dissecting data, that transcended into my overall analysis in my findings chapters that would capture the interest and respect of readers and researchers.

As noted above, the 2002 critique of empirical legal scholarship by Epstein and King is often taken as representing the dominant view on empirical legal methodology.[38] However, following their criticisms came three detailed replies from legal scholars and authors who were of the opinion that the criticisms were overrated and inappropriate.[39] The rules of inference were argued to have lacked obvious relevance in some legal scholarship. Epstein and King in the authors' opinion, missed this point because their empirical methodology blinds them to legal scholarship's internal perspective.[40] Some authors although agreed with Epstein and King that there was indeed need for empirical legal methodology, criticized the authors' distaste for

---

[35] Epstein and King (n5) 56.
[36] Epstein and King (n5) 59.
[37] Ibid.
[38] J B Fischman, 'Reuniting 'is' and 'ought' in Empirical Legal Scholarship' (2013) 162 University of Pennsylvania Law Review 117, 158.
[39] See generally R L Revesz, 'A Defense of Empirical Legal Scholarship' (2012) 69 *The* University of Chicago Law Review 169.
[40] See generally J Goldsmith and A Vermeule, 'Empirical Methodology and Legal Scholarship' (2002) 69 The University of Chicago Law Review 69 153.

and criticism of empirical legal scholars.[41] Fischman, in the above article, pointed out that scholars rather than having the substantive question determine their choice of research have been seen to make the mistake of allowing the choice of method to determine their research question. On that note, researchers must work towards tethering empirical legal methodology to motivate the questions in legal scholarship.[42] This supports the point made by Epstein and King, that those in the legal field who proceed to carry out empirical research are far from qualified.

Despite the fact that empirical legal methods have come to hold great potential for influencing the world through their invaluable method of application,[43] and their applications altogether are said to have the power to promote the ethical practice of law,[44] they were considered lacking.[45] Applying Epstein and King's proposal of the rules of inference, however, in my opinion, enables the elimination of this label. This research thus evaded this label through its thorough application of the discussed characteristics from the rules of inference, as seen through the detailed justification of the method choices made in this Chapter. Evidence of characteristics adopted includes the particular attention paid to the application of empirical methods, the collection of data from interviews and documents, and the analysis of the data collected using the coding method of the grounded theory methodology, hence; ensuring that researchers pay attention to the methodology application of this research thesis. On that note, this Chapter proceeds to explain, analyse and justify the methodology steps taken in this research thesis.

WITHIN MERTEN'S TRANSFORMATIVE RESEARCH PARADIGM

Research paradigms are based on a set of shared assumptions, concepts, values, and practices about how things work. They are a basic set of beliefs that guide action.[46] Researchers are expected to be clear about their own beliefs and assumptions because their tools are based on their conversations and experiences. The responses given by proponents to the four questions

---

[41] Fischman (n38) 158.
[42] Ibid.
[43] Boyd (n21) 377.
[44] S S Fortney, 'Taking Empirical Research Seriously' (2009) 22 The Georgetown Journal of Legal Ethics 1473, 1474.
[45] Fischman (n38) 127.
[46] Guba and Lincoln (n1) 107.

listed below are what guides research paradigms; these questions are interconnected; hence the answer to one question, taken in any order, constraints the answers to the other questions. [47] These four questions are based on axiology, ontology, epistemology and methodology. The axiology involves ethics, ontology involves the philosophy of reality, epistemology addresses how we come to know that reality, and methodology identifies the particular practices used to attain knowledge of it.

- The axiology question looks into the ethics of the research and the values of the participants,
- The ontological question asks what the form and nature of reality is, therefore what can be known about it,
- The epistemological question asks what the relationship is between the researcher (knower) and what is to be known, therefore how we come to know,
- The methodological question asks how the inquirer (knower) can go about finding out what they believe can be known.[48]

This research thesis question was asked within the transformative paradigm, sometimes called the transformative framework. This research thesis uses the terms 'paradigms' and 'framework' interchangeably when referring to its transformative nature. This paradigm according to Mertens, was developed as a response to individuals whose history evidences them being pushed throughout history, and are working towards bringing their voice to the world of research. Here their voices with that of the researchers, who act as their partners, are used in support of social justice and human rights in marginalized communities.[49]

Unlike other paradigms, such as positivism and constructivism, amongst others, there is no uniform body of literature characterizing the transformative paradigm; it covers groups of researchers, including critical theorists, participatory action researchers, ethnic minorities and indigenous and postcolonial peoples.[50] This is unlike the positivist paradigm which uncovers truth and objective realities through the use of scientific methods of research only. The

---

[47] Guba and Lincoln (n1) 108.
[48] Ibid.
[49] D M Mertens, *Transformative Research and Evaluation* (The Guilford Press 2009) 3.
[50] J W Creswell, *Research Design: Qualitative and Quantitative Mixed Methods Approaches* (4th Edition, Sage Publications 2014) 9.

transformative paradigm was proposed to address anomalies that arise when researchers and community members expressed frustration that their efforts are falling short of the desired mark in terms of social justice.[51] Research into social injustices within this framework according to Charmaz, generally address differential power, resources and suffering amongst peoples, focusing on and furthering equitable resources, fairness and the eradication of oppression.[52]

The characteristics of the transformative paradigm promotes the ultimate aim of this research thesis which, from the exploration of indigenous experiences, proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation. Highlighting the gaps in indigenous experiences in the region with regard to discrimination, oppression, and violation of the peoples' human rights allowed for the underpinnings of illegal and unjust actions that can be avoided when the actionable-policy recommendations created in this research thesis are applied by the Nigerian government. In support of this research's purpose and the research phenomenon, which is militarisation, the basic tenet of this paradigm, according to Mertens, is that when researchers construct knowledge the aim is to improve society, hence knowledge is a reflection of the power and social relationships in society.[53]

The transformative paradigm, as noted above, is defined by four basic assumptions: axiology, ontology, epistemology and methodology.[54] It places priority on the axiological assumption, which concerns ethical or moral behavior, this assumption helps in containing researchers beliefs and research decisions.[55] Within this paradigm, the ontology question is answered, holding that reality is socially construed with an awareness that certain individuals occupy positions of higher power and that individuals with other characteristics may be associated with a higher likelihood of exclusion from decisions about the definition of the research problem

---

[51] Mertens 2009 (n49) 3.
[52] Charmaz 2013 (n3) 292.
[53] J W Creswell and C N Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (4th Edition, Sage Publications 2018) 25.
[54] D M Mertens, M Sullivan and H Stace, 'Disability Communities: Transformative Research for Social Justice' in N K Denzin and Y S Lincoln (eds), *The Landscape of Qualitative Research* (4th Edition Sage Publications 2013) 475, 483-484.
[55] D M Mertens, H M Holmes and R L Harris, 'Transformative Research and Ethics' in D M Mertens and P E Ginsberg (eds), *The Handbook of Social Research Ethics* (Sage Publications 2009) 85, 88.

and questions.[56] The epistemology question is answered, maintaining the importance of a link between participant and researcher; it is characterized by a close collaboration between researchers and participants of a study, whether they are community leaders or members of organizations, and the final methodology question is answered, maintaining this link using any research method choice.[57] The axiology assumption concerns ethical or moral behavior; this is of particular advantage to this research thesis as it means that transformative paradigm research is carried out on a platform that ensures respect for indigenous values. It is further highlighted on below, in the ethical considerations section of this chapter. The workings of the transformative paradigm challenge society's status quo of oppressive systems, bringing about equality.[58] This is a challenge that this research thesis welcomes, following the research purpose statement and question presented in Chapter One.

The characteristics of the transformative paradigm are firmly rooted in a human rights agenda, much of which is articulated in the United Nations Universal Declaration of Human Rights 1948. The Declaration recognizes inherent dignity, equal rights, security, peaceful assembly, and participation in governance for all humans.[59] What this essentially means for this research thesis is that within this paradigm the research achieved its aim of creating actionable-based policy recommendations through which indigenous peoples in the Niger Delta region can be legally protected. Furthermore, particular attention being paid to the human rights agenda meant that the indigenous peoples' experiences was effectively evaluated, as the transformative paradigm links political and social action to inequities suffered by such marginalized groups. Mertens, whilst citing indigenous peoples, notes that the challenges in the world, the need to acknowledge and address the issues of power, discrimination, and oppression are the rationale for the transformative paradigm. The paradigm plays a key role in addressing inequities in marginalized communities. Findings based on this research paradigm provides evidence for further studies that have the potential for social change.[60] The above shows how the transformative paradigm helps in answering questions on why the problems of oppression,

[56] Mertens, Holmes and Harris (n55) 92.
[57] Mertens, Holmes and Harris (n55) 94.
[58] Mertens, Sullivan and Stace (n54) 484.
[59] Mertens, Holmes and Harris (n55) 89.
[60] Mertens 2009 (n49) 3.

domination and power relationships exist in dealing with indigenous issues within the Niger Delta, and raising indigenous consciousness about improving their lives, amongst others.

Concerning the motivation behind the methodological choice of carrying out this research thesis; while paying attention to power issues involving marginalized communities, transformative researchers, instead of looking into scholarly literature, make use of both the qualitative and quantitative methods to determine the focus of the research.[61] This research thesis slightly deviates from the above assertion, in that the research focus and question were drawn from personal accounts and media reports of power-led oppression, discrimination and marginalization of the indigenous peoples in Nigeria's Niger Delta region through the act of militarisation; and also from existing literature, looking into the gap that was yet to be filled in academic research and the difference that legal protection could mean for the indigenous peoples in the region. Being an indigenous person from this region, I witnessed first-hand the Warri Crisis that saw the place I call home, being dominated by the military. Nearby communities being over-militarised and the more recent over-militarisation of the Gbaramatu Kingdom, which was done under the guise of hunting down an individual accused of being a militant have resulted in my research thesis.

I will from this detail a personal experience that not only affected my research visions but also brought to light already known facts of the situation in the Niger Delta region. This provides evidence of the violation of peoples' rights under the pretext of the need to have the military maintain the peace in the Gbaramatu Kingdom and in the Niger Delta region as a whole. Mertens transformative paradigm insists that researchers hold important roles in the need to address these issues given the changing demographics of our society and the injustices that continue today.[62]

My initial research method choice was to conduct focus group interviews in the over militarised communities in the Gbaramatu Kingdom, gaining first-hand accounts of events, how these events have affected the peoples' lives, and the peoples' opinion on what motivates the

[61] D M Mertens, 'Transformative Paradigm: Mixed Methods and Social Justice' (2007) 1 Journal of Mixed Methods Research 212, 213.
[62] D Sweetman, M Badiee and J W Creswell, 'Use of Transformative Framework in Mixed Methods Studies' (2010) 16 Qualitative Inquiry in Sage Publications 441, 441.

Nigerian government's decision to militarise their communities besides the widely reported reasons of violent conflict resolution and curbing militancy.[63] During the time of my attempt to enter these communities, after gaining ethical approval and sending out interview invitations, the military occupied the communities in the Gbaramatu Kingdom once again. This led to major unrest and conflicts that saw people fleeing their homes, and the military oppressing the people in the name of hunting down militants and civil unrest,[64] and hence my inability to proceed with my initial choice of methodology. What this showed me was another of the many instances in which indigenous peoples are repressed by the military. I was, however, vigilant not to let these experiences lead to preconceptions that affected my research findings, and was successful in managing this, but made notes of experiences and how they affected my research thesis, either directly or otherwise, hence the above personal account.

Dominant paradigms in empirical research are positivism, post-positivism, critical theory etc., constructivism and participatory paradigms. However, classifying the paradigms is a decision that the author or researcher have to make based on their research area, questions, aims and purpose. some researchers have adopted pragmatic, interpretivist and transformative views amongst others, hence the development and proposal of other paradigms to accommodate and answer research questions. It is not unknown for researchers to adopt the characteristics of other paradigms;[65] choosing a research paradigm is not static. Researchers have the flexibility of adopting characteristics from other paradigms that assist them in answering the research question and achieving the research aim. The viewpoints surrounding paradigm choices are not mutually exclusive, they merely serve as guidance; the research can be as unique as the researcher, which is acceptable. It is up to the researcher to validate their choices.

This research thesis, following my personal experiences, was socially construed to answer the research question from a qualitative point of view. Qualitative researchers are encouraged to delve further by experiencing the culture or organisation being studied, by being a part of the experience; applying this method to research will result in a more in-depth understanding of

---

[63] See generally A A Usoro, O E Ekpenyong and C Effiong, 'Conflict Management: The Nigerian Government's Strategies and the Question of Enduring Peace' (2014) 3(2) Business and Management Research 138.
[64] G Ewepu, 'Military Invasion of Gbaramatu Kingdom Unacceptable – NDYF' *Vanguard* (Nigeria, May 2016).
[65] See generally D Silverman, *Doing Qualitative Research* (4th Edition, Sage Publications 2013).

the research phenomenon.[66] The characteristics of the transformative paradigm according to Mertens, incorporates the tradition of critical theory, postcolonial indigenous and constructivism.[67] These traditions provide the options for researchers like myself to use the research space as a forum for instituting change towards more just, more democratic, and more equitable social relationships.[68] This research thesis included characteristics from the above traditions.

This research paradigm, although transformative, used independently Charmaz's constructivist grounded theory method as a strategy of inquiry, but incorporated characteristics of both constructivism, and critical theory paradigms as accepted and encouraged by Mertens above. Furthermore, its focus on the indigenous peoples of the Niger Delta region confirms the inclusion of the traditions of postcolonial traditions. Their application to this research thesis, qualifies it as an original contribution to knowledge, as it is a first of its kind to overlap the transformative, constructivist and critical theory paradigms in social-legal research. The choice to overlap these paradigms was not merely to be original but due to the fact that within this choice of overlap, the agenda to effect positive change for the participants and indigenous peoples living in the Niger Delta region was visibly promoted.

One may ask why not settle for either constructivism or critical theory paradigms? Some characteristics of constructivism, in line with this research's problems, and aims, although rightly: 'denies the existence of an objective reality, asserting instead that realities are social constructions of the mind,'[69] would not have, in my opinion, assisted this research thesis in achieving its ultimate aim. Guided by the nature of reality in this research (ontology), which stresses power positions influenced by the indigenous peoples of the Niger Delta region's history, comes the need for the application of a critical theory paradigm, the key elements of which include the political and social agenda, but it is more of a theory than how to conduct a

---

[66] S T Krauss, 'Research Paradigms and Meaning Making: A Primer' (2005) 10(4) The Qualitative Report 758, 759-760.
[67] See generally D M Mertens, 'Transformative Mixed Methods: Addressing Inequities' (2012) Sage Journals 1.
[68] N R A Romm, 'Exploration of Transformative Paradigm with Pragmatic Twist to Contribute to Educational Change' (2014) 5(2) International Journal on New Trends in Education and Their Implications 134, 138.
[69] J Mills, A Bonner and K Francis, 'The Development of Constructivist Grounded Theory' (2006) 5(1) International Journal of Qualitative Methods 1, 2.

study. As critical theory is focused on changing the status quo, it is transformative in nature; however, constructivism is geared towards being more neutral and descriptive.[70] Furthermore as the critical theory paradigm rejects experience alone as a valid basis for knowledge, its application as a stand-alone paradigm will be unsuitable to solve this research's problems.

This research justifiably incorporated characteristics from the critical theory model and constructivism that assisted in the successful application of the constructivist grounded theory method to achieve this research thesis's objective, and the multiple reality characteristics that the constructivism paradigm shares with the transformative paradigm.[71] Transformative research paradigm in its flexible nature as well as allowing for mixed methods, arguably allows for a mixed models approach, when looking at its nature.[72] For research designs to be robust researchers are encouraged to choose a research paradigm that is compatible with their beliefs.[73] The transformative paradigm, although based on assumptions that are fairly different from the underlying interpretive/constructivist paradigm, following the above assertions, work well together to achieve this research's objectives. For example, regarding the constructivist tradition, the transformative paradigm may benefit from appreciating the constructivist insistence that all researchers can ever find are ways of constructing visions of realities.[74] Hence the decision to mix characteristics of paradigm to achieve this research's aim was justified.

CHARACTERISTICS OF QUALITATIVE RESEARCH

The inclusion of a qualitative dimension is critical in transformative research as a point of establishing the dialogue between researchers and community members.[75] Qualitative research

---

[70] M Halaweh, 'Integration of Grounded Theory and Case Study: An Exemplary Application from e-Commerce Security Perception Research' (2012) 13(1) Journal of Information Technology Theory and Application 31, 33.
[71] J D Lisle, 'The Benefits and Challenges of Mixing Methods and Methodologies: Lessons Learnt from Implementing Qualitatively Led Mixed Methods Research Designs in Trinidad and Tobago' (2011) 18 Caribbean Curriculum 87, 92.
[72] Silverman (n65).
[73] Mills, Bonner and Francis (n69) 2.
[74] N R A Romm, 'Reviewing the Transformative Paradigm: A Critical Systemic and Relational (Indigenous) Lens' (2015) 28 System Practice Action Research 411, 425.
[75] Mertens, Holmes and Harris (n55) 96.

locates observers in the world through its situated activities.[76] It originated from early world researchers, who while collecting cultural artefacts in foreign lands, documented accounts and experiences they had with the tribes.[77] It is inductivist, constructivist and interpretivist.[78] Detailed information provided from qualitative research aids knowledge, in that it helps assess the impact of policies on a population, give insights into individual experiences, and can enable the exploration of unexplored attitudes and values.[79] Rather than becoming caught up in the notion of what is classed as the truth and the bases of various claims to knowledge in research, what qualitative research seeks to do is reduce the uncertainty by using the best and most transparent approaches available.[80] The identification of indigenous experiences and accounts in the illegal and unjust act of militarisation by the Nigerian government in the Niger Delta region is successfully evidenced from the use and application of the transparent constructivist grounded theory method within the premise of the transformative paradigm.

Social settings set the background for qualitative research. In qualitative research, the researchers examine phenomena in their social settings and consider the phenomena in context.[81] Qualitative research usually begins with the assumptions and the use of theoretical or interpretive frameworks to inform the study of the research problems, while addressing the meanings that individuals ascribe to a social problem.[82] They contain action agendas for reform with the possibility of changing the lives of the participants, their communities, organisations, and in some cases the researcher's life.[83] Qualitative researchers are required to use emerging approaches of inquiry, collect data in participants' natural setting, and report interpretation of the problem in a flexible structure that would ensure that they contribute to the literature and effect change for the participants.[84] This research thesis's interviews were conducted in the participants' offices, using semi-structured interviews as analysed below and the research findings were interpreted/analysed using Charmaz's flexible constructivist grounded theory

---

[76] N K Denzin and Y S Lincoln, *The Sage Handbook of Qualitative Research* (5th Edition, Sage Publications 2017) 742.
[77] M Birks and J Mills, *Grounded Theory: A Practical Guide* (Sage Publications 2011) 6.
[78] A Bryman, *Social Research Methods* (5th Edition, Oxford University Press 2016) 374.
[79] C Grbich, *Qualitative Data Analysis: An Introduction* (2nd Edition, Sage Publications 2013) 3.
[80] Grbich (n79) 4.
[81] See generally L Webley 'Qualitative Approaches to Empirical Legal Research' in P Cane and H Kritzer (eds) *The Oxford Handbook of Empirical Legal Research* (Oxford University Press, 2010) 926.
[82] J W Creswell, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (3rd Edition, Sage Publications 2013) 44.
[83] Creswell and Poth (n53) 25.
[84] Creswell 2013 (n82) 44.

method. A unified theory, explaining the social and legal motivations of the Nigerian government's decision to militarise the Niger Delta region was developed, following by an analytical underpinning of the theory in proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the region. Hence contributing to literature, with the possibility of effecting change.

In line with the above, Webley opines that a qualitative research identifies the presence or absence of something.[85] It usually yields extensive data, though much of it is descriptive in its initial stages, from which the researcher often seeks to derive an understanding of key patterns or themes. The nature of qualitative research, as summarized from the above assertions, is subjective, inductive, with little structure and manipulation of subjects, and there is little social distance between the researcher and the subject. It, however, takes a great deal of time to conduct, but if approached and planned diligently the researcher can overcome this with ease.

There are five basic aspects of designing a qualitative empirical research study once the researcher has framed the question to be asked in the research and analysed the research paradigm, which has been noted above. First is the determination of the methodology required to answer the research question, it must be appropriate and free of constraints such as limited access to data.[86] This has been done in the above justifications. Researchers, after this considers the method for selecting documents, and method of analysis. This is done in the sections below. Through all of these researchers are encouraged to have the requirements of ethical and moral considerations, which ensures that participants are not harmed in the process of conducting the research, at the forefront of their minds.[87] Furthermore, critical to successful research is using an appropriate research method for inquiry.[88] The qualitative approach to empirical research tends to focus on a smaller number of observations or data sources, whether people, events or documents, which are considered to be data rich and thus worthy of study, and to examine them in-depth.[89] Interviews conducted in this research was with six participants, and documents

[85] http://www.academia.edu/394211/Chapter_38_Qualitative_Approaches_to_Empirical_Legal_Research accessed 16 September 2017.
[86] Ibid.
[87] (n85).
[88] J Y Cho and E-H Lee, 'Reducing Confusion about Grounded Theory and Qualitative Content Analysis: Similarities and Differences' (2014) 19(64) The Qualitative Report 1, 1.
[89] Webley (n81).

analysed were nine in total. In-depth research affords the researcher the opportunity to learn how research participants understand the world and interact with each other. This aligns with the purpose of this qualitative research thesis which from the construction of knowledge, as promoted by both the transformative paradigm and the constructivist methodology, proposed actionable-based policy recommendations for the legal protection of the Niger Delta's indigenous peoples against militarisation.

Various research methods will support different types of findings because different methods provide different insights.[90] Data in qualitative researches are usually collected by direct observation (as pointed out by Epstein and King), in-depth interviews and analysis of documents, all of which can be used singly or in combination.[91] Creswell divides qualitative research into five types, they are; narrative research, phenomenology, grounded theory, ethnography and case study; noteworthy is the fact that some of the above types have been seen to cross research types.[92] For example, the Grounded Theory Institute, run by Glaser, one of the founders of grounded theory, noted that although many call grounded theory a qualitative method, it is not; what it is, according to their definition, is a general method.[93] What must be noted, however, is that the definition of grounded theory implies that grounded theory is not just meant to be used as a qualitative method, it can also be used as a quantitative method, bearing in mind that it serves as both a method and a methodology.

The choice to follow the design of qualitative research was influenced by various reasons. Firstly, was my awareness of the phenomenon, militarisation, which has become something that, by being from the Niger Delta region, is an experience of not just the majority, if not all, indigenous peoples living in the region, but of mine. Reports on the phenomenon in my opinion are lightly coated with the experiences of those involved. Majority of past studies about the Niger Delta region are based on quantitative research.[94] In talks about legal and illegal underpinnings, I noticed from my research that there was little comprehensive qualitative

---

[90] Webley (n81).
[91](n85).
[92] See generally Creswell 2013 (n82).
[93] Cho and Lee (n88) 2.
[94] See generally E Osaghae, A Ikelegbe, O Olarinmoye and S Okhomina, 'Youth Militias, Self Determination and Resource Control Struggles in the Niger Delta Region of Nigeria (2008) Research Report Consortium for Development Partnerships (CPP) 1.

studies on the experiences of the indigenous peoples living in the Niger Delta region, with particular regard to militarisation. Augustine Ikelegbe and Nathaniel Umukoro however, conducted a ground-breaking qualitative study on 'the Amnesty Programme and the Resolution of the Niger Delta Crisis: Progress, Challenges and Prognosis', using four research instruments; in-depth questionnaire, social activists (ex-militant) questionnaire, key informant interview schedule and focus group discussions.[95] There however, remains gaps to be filled academically and societally reliant on exposing deeper trends, as allowed by the grounded theory method. Whilst contributing originally towards filling this gap on an academic level, there is hope that the actionable-based policy recommendations developed in this research would be further developed to fit into the real world. I also wanted to propose a solution to the phenomenon which is understood from the research participants' own words, experiences and voices, not just my own, by the readers of this research thesis, and ultimately the government and those effected to make legal changes for the legal benefits of the indigenous peoples living in the Niger Delta region. It was for this reason that I sought to achieve a textual and theoretical analysis of the actions and inactions (social and legal factors) that prompt the Nigerian government's decision to militarise the Niger Delta region.

GROUNDED THEORY METHOD, ITS CHARACTERISTICS, AND EVOLVEMENT

Grounded theory, discovered by Barney Glaser and Anselm Strauss:[96]

> Is an inductive method of qualitative inquiry which involves developing theory as the research proceeds, allowing a researcher to seek an understanding of an area by developing and refining a theory as more is learnt about the topic area.[97]

The inductive nature of the grounded theory method requires the creation of data from emerging data; going from the more general to the particular.[98] The above is in direct contrast to the deductive nature of other approaches that begin with theoretical frames and narrows towards the studied area, hence testing a theory. Although historically more prevalent in qualitative research, grounded theory methodology is also applicable to quantitative studies in

[95] See generally A Ikelegbe and N Umukoro, 'The Amnesty Programme and the Resolution of the Niger Delta Crisis: Progress, Challenges and Prognosis' (2016) 14 CPED Monograph Series.
[96] See generally P N Stern, 'In the Beginning Glaser and Strauss Created Grounded Theory' in J M Morse, P N Stern, J Corbin, B Bowers, K Charmaz and A E Clarke (eds) *Developing Grounded Theory: The Second Generation* (Left Coast Press 2009) 23-29.
[97] Charmaz 2013 (n82) 293.
[98] See generally L Liusvaara, 'Grounded Theory in a Case Study – Questions of Generalizing Outcomes' http://www.lawpoint.fi/artikkeleja/6 accessed 16th September 2017.

grounded theory research.[99] Important to note here is the difference between methodology and method: 'methodology is a set of principles and ideas that inform the design of research, while methods are practical procedures used to generate and analyse data.'[100] This research thesis adopted both the features of grounded theory as a method and a methodological framework, hence the gathering of data within a qualitative-based research, and the analysis of the data, within the premise of the transformative paradigm, guided by qualitative research methodology.

The transformative paradigm/framework influenced the choice to use grounded theory as a method and methodology because it best accommodated this research thesis purpose and aim, which from the exploration of indigenous experiences developed a theory, which influenced the proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation. Following the grounded theory method and methodology, allowed for my work with participants and ability to take a stand on the research problem area. As noted above, grounded theory can act as both methodology and method; it can serve in various ways in research, as a theory of research, generating a theory, a data collection method, and a mode of the data analysis. It is a qualitative approach, mainly used in the social science field,[101] and in the legal field.[102] It allows researchers to put aside previous research, not impose previous analytical frameworks, focusing only on the project at hand; previous research here only help give context to findings.[103] According to Charmaz: 'it starts with an inductive logic and emphasizes simultaneous data collection and analysis to construct middle-range theories.'[104]

Glaser and Strauss were the first academics/authors (sociologists) to propose the grounded

---

[99] N Ralph M Birks and Y Chapman, 'Contextual Positioning: Using Documents as Extant Data in Grounded Theory Research' (2014) Sage and Open Access 1,1.
[100] Birks and Mills (n77) 4.
[101] G Goldkuhl and S Cronholm, 'Adding Theoretical Grounding to Grounded Theory: Toward Multi-Grounded Theory' (2010) 9(2) International Journal of Qualitative Methods 63, 63.
[102] See generally S Sargent, 'The Best Interest of the Child in Intercountry Adoption: A Constructivist and Comparative Account' (Dphil Thesis, De Montfort University 2009) https://www.dora.dmu.ac.uk/bitstream/handle/2086/3535/Sargent,%20Sarah%20PhD.pdf?sequence=1 accessed 16 September 2017.
[103] M Lichtman, *Qualitative Research for the Social Sciences* (Sage Publications 2014) 108.
[104] K Charmaz, 'Reconstructing Grounded Theory' in P Alasuutari, L Bickman and J Brannen (eds) *The Sage Handbook of Social Research Methods* (Sage Publications 2009) 461, 461.

theory method in 1967. The method applies to both quantitative and qualitative types of research. They defined it as the discovery of theory from data. Grounded theory generates or discovers theories of actions, interactions or processes.[105] It involves the use of intensive, open-minded and iterative processes, simultaneously involving data collection, coding/data analysis, and memo-writing.[106] The idea surrounding its creation was that graduate students instead of being taught how to generate theories themselves were being trained to confirm the ideas of early theorists.[107] Furthermore, it was created because most social research was permeated by the extreme positivism approach and Glaser and Strauss were of the legitimate view that the social and natural science did not deal with the same type of subject matter.[108] They rejected the notion that scientific truth reflects an independent external reality, and argue that what scientific truth arises from is the combination of: 'the act of observation and the emerging consensus within a community of observers as they make sense of their observation,'[109] hence the interpretation of meaning obtained from participants.

The strategies of grounded theory, from its development, as intended by its creators, is based on the principal aim of stimulating other grounded theorists to codify and publish individual methods of conducting grounded theory. Researchers here are not expected to explicitly follow the steps of grounded theory without their imaginative inputs; it is not intended to be a residual chore.[110] From the time of its introduction grounded theory has successfully developed in several directions, involving very flexible interpretations. What one must note however is that this does not imply that researchers can present any research and claim that it is grounded theory; they must keep the actual characteristics/features of grounded theory in mind through its application, with sound academic justifications for their choice.

Birks and Mills encourage researchers to identify their underlying assumptions in the world to

---

[105] Creswell 2013 (n82) 83.
[106] Cho and Lee (n88) 2.
[107] R Larossa, 'Grounded Theory Methods and Qualitative Family Research' (2005) 67 Journal of Marriage and Family 837, 839.
[108] R Suddaby, 'From the Editors: What Grounded Theory is Not' (2006) 49(4) Academy of Management Journal 633, 633.
[109] Ibid.
[110] B Glaser and A Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Aldine Transaction 1967, 2012) 8.

decide their methodological position.[111] The original method of grounded theory by Glaser and Strauss, and also that of Strauss and Corbin, despite their popular reception into the world of research, had criticisms. One of such criticisms was that the original grounded theory methods should not be a methodological/method package but rather be strategies and techniques (methods).[112] The grounded theory method currently allows for flexible analytic guidelines; this, however, has fuelled the continuous contesting of the method by researchers, authors, and academics, leading to complications of what researchers accept as grounded theory. Hence from the time of its discovery to now, there have been different interpretations of grounded theory established by academic researchers, amongst others,[113] including Glaser's, and Clarke's 2005 types of grounded theory. Two of the most popular interpretations being Strauss and Corbin's systematic procedures to grounded theory and Charmaz's constructive approach to grounded theory.[114]

Glaser and Strauss, the founders of grounded theory, following its development changed and reconstructed their interpretation of grounded theory. Interestingly Glaser, whose approach leans more towards the positivist school of thought and has not altered his epistemology, has followed suit in making changes to his approach of grounded theory.[115] The change was instigated by the falling out of the original fathers regarding the meaning and procedures of grounded theory, they then proceeded to put across their individual types of grounded theory. Noteworthy, however, is that despite all interpretations and differing opinions, grounded theory's main goal still guides towards theory building. According to Khan: 'the conceptual nature and step towards theory building, rather than empirical testing of a theory that grounded theory possesses, validates its use in qualitative researches.'[116] This feature of building theories was essential to this research, as the research through the analyses of the social and legal factors that motivates the Nigerian government's decision to militarise the Niger Delta region, built a unified theory. From this theory, the research created actionable-based policy recommendations geared towards the legal protection of the region's peoples against

---

[111] Birks and Mills (n77) 5.
[112] Birks and Mills (n77) 5.
[113] See generally K Charmaz, 'The Power and Potential of Grounded Theory' (2012) 6(3) *A* Journal of the BSA MedSoc Group 1.
[114] Creswell 2013 (n62) 86.
[115] Charmaz 2009 (n104) 461 and 468.
[116] S N Khan, 'Qualitative Research Method: Grounded Theory' (2014) 9(11) International Journal of Business and Management 224, 224.

militarization.

USING CHARMAZ'S CONSTRUCTIVIST GROUNDED THEORY METHOD IN THIS TRANSFORMATIVE PARADIGM RESEARCH – A JUSTIFICATION

Research such as this with interpretive components rarely ever appear in black or white, in grounded theory there is much to learn from all antecedent theorist.[117] Grounded theory method and methodology, as noted in the above section, has evolved since its discovery. Following its evolution, there have been substantial and sound amounts of academic suggestions as to how it should be applied. This research thesis rejected the application of Redman-MacLaren and Mill's proposed transformational grounded theory which explored the offerings of critical realism as a basis for transformational grounded theory informed by participatory action research and decolonizing methodologies.[118] Redman-MacLaren and Mill's method was developed in response to the challenge of grounded theorists' call for an explicit description of the philosophical underpinnings of grounded theory.[119] The rationale behind the transformational grounded theory[120] evidences a lack of development on the constructivist nature with particular regard to the lack of objectiveness of reality and the over-reliance on participants role led to this rejection. This is so, even though it rightfully translates as a critical grounded theory methodology and notes the privilege of participation, redistribution of power and action for positive change about indigenous peoples

This research thesis adopts Charmaz's constructivist grounded theory method. Adapting the flexible nature of Charmaz's grounded theory method enabled the adaptation of all the characteristics proposed in Redman-MacLaren and Mill's new method, including that of incorporating the framework of decolonizing research methodologies. One must bear in mind that the ability to access participants in such conflict-prone regions as Nigeria's Niger Delta is not as clear-cut as it initially appears to be, whether one is indigenous or not. Hence there is a

[117] Birks and Mills (n77) 3.
[118] M Redman-MacLaren and J Mills, 'Transformational Grounded Theory: Theory, Voice and Action' (2015) 14(3) International Journal of Qualitative Methods 1, 1.
[119] Redman-MacLaren and Mills (n118) 2.
[120] Redman-MacLaren and Mills (n118) 2.

need for, although still paying attention to the role of participants, being open to alternatives and the flexible nature of Charmaz's constructivist grounded theory method, where contact becomes impossible mid-research. Decolonizing research methodologies offers frameworks for analysing oppressive assumptions about the research process, privileging indigenous ways of knowing and understanding history and ensuring that the research agenda is determined by indigenous research participants.[121] The characteristics of the application of the constructivist grounded theory method to this research thesis were in line with achieving this research's aim. Furthermore, Mertens, as noted above, confirmed that transformative paradigms concerning oppressed indigenous groups could be tackled by Charmaz's constructivist grounded theory, by its social nature.

Charmaz's constructivist grounded theory adopts the methodological strategies of the original grounded theory whilst integrating relativity and reflexivity throughout the research process.[122] She, instead of embracing the study of a core category like Strauss and Corbin advocates for: 'diverse local worlds, multiple realities and complexities of particular worldviews, and actions.'[123] Strauss is of the opinion that the construction of action is the central problem that researchers need to address.[124] Strauss's opinion is based on:

> The notions of human agency, emergent processes, social and subjective meanings, problem-solving practices, and the open-ended study of action, to grounded theory.[125]

His opinion in line with Charmaz's constructivist grounded theory where data collection and analysis reciprocally inform and shape each other through an emergent iterative process.[126] Charmaz's constructivist grounded theory:

> Rejects the assumptions of an objective external reality, a passive, neutral observer or a detached, narrow empiricism expressed in the original format of the grounded theory method, and builds on the social constructionism inherent in Strauss's theory.[127]

---

[121] Redman-MacLaren and Mills (n118) 6.
[122] Charmaz 2013 (n3) 303.
[123] Creswell 2013 (n62) 87.
[124] K Charmaz, *Constructing Grounded Theory* (2nd Edition, Sage Publications 2014) 9.
[125] Ibid.
[126] Charmaz 2013 (n3) 293.
[127] Charmaz 2009 (n104) 469.

Charmaz suggested a social interaction approach in grounded theory method that emphasizes the researcher's interaction and involvement with participants in constructing theory.[128] Researchers here must examine rather than erase how their privileges and preconceptions may shape the analysis; their values shape the very facts that they can identify.[129] This takes researchers deep into the phenomenon without isolation from social locations, allowing researchers to gain an intimate knowledge and work inductively from their position.[130] The relationships between researchers and participants and the importance of writing in constructing a final text that remains grounded in data are the focus of Charmaz's work.[131] Her grounded theory method is shaped in a way that aid social justice through its analytical technique and method,[132] and promotes this research thesis's purpose which, from the exploration of indigenous experiences, proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation. It is the method's emphasis on empirical scrutiny and analytical precision which fosters creating distinct analyses of the influence of social and economic conditions in theory construction, which influences practices and policies for researchers seeking change, and also act as a contribution to knowledge.[133]

Whilst on the one hand basing the theories on the interpretations of given perspectives, the grounded theory method also allows researchers to make judgements on these perspectives based on their usefulness to the research in general. Charmaz's constructivist grounded theory assumes that people construct both the studied phenomenon and the research process through their actions which are constrained by historical, social and situational conditions, and recognizes the role that researchers play in shaping the data and analysis.[134] Hence it assumes a relativist epistemology, in tune with the transformative paradigm epistemology. Charmaz notes:

---

[128] Cho and Lee (n88) 3.
[129] Charmaz 2009 (n104) 469.
[130] K Charmaz, 'Shifting the Grounds: Constructivist Grounded Theory Methods' in J M Morse, P N Stern, J Corbin, B Bowers, K Charmaz and A E Clarke (eds) *Developing Grounded Theory: The Second Generation* (Left Coast Press 2009) 127, 146.
[131] Birks and Mills (n77) 6.
[132] Charmaz 2014 (n124) 326.
[133] Charmaz 2013 (n3) 293.
[134] Charmaz 2013 (n3) 293.

> Adopting grounded theory's methods in the study of substantive questions enhances social justice. The critical stance in social justice research combined with the analytic focus of grounded theory broadens the scope of inquiry. The very process of social justice research which involves researchers witnessing their participants' lives and analysing data may elicit concerns about social justice that they had not understood earlier or anticipated. [135]

The application of the constructivist grounded theory method to this research allowed participants to lead the way, whilst the researcher followed the data. According to Charmaz, the constructivist grounded theory approach is particularly useful in transformative framework research, which is laced in social justice inquiry, because of its subjective nature which considers the participants' positions and adopts a method that successfully shows compassion for power privilege relationships, oppression, and discrimination. This is done whilst the researcher ensures that they are alert to variation and difference.[136] Amongst the different approaches to the grounded theory method, the constructivist grounded theory method is the one that closely links the researcher with participants, noting that the grounded theory perspective as a whole is one that locates the phenomena of human experiences within the world of social interaction.[137] The interactions with participants in grounded theory make all the difference to the research.

Despite the applauding reception that Charmaz's constructivist grounded theory has received, it has also been open to criticisms. Criticism from Glaser (one of the founding fathers of grounded theory) was that the constructivist grounded theory method is a complete misinterpretation of the original whose characteristic of linking data with existing and emergent theory makes bias transparent.[138] He argues that Charmaz's version of the grounded theory method legitimizes forcing data to the researcher's view by jargonising and creating meaningless labels to be added to the original grounded theory approach.[139] The above, however, is not the case, as the rationale behind Charmaz's constructivist grounded theory

---

[135] Charmaz 2014 (n124) 326; Charmaz 2013 (n3) 292.
[136] Charmaz 2013 (n3) 293-294.
[137] Grbich (n79) 80.
[138] Grbich (n79) 88; Gibson and Hartman identified some problems with the method, where they implied that the flexible nature of the constructivist grounded theory method meant opening the process to question, in B Gibson and J Hartman, *Rediscovering Grounded Theory* (Sage Publications London 2014) 62.
[139] Grbich (n79) 88.

method, in my opinion, is a more realistic, morality-based application to grounded theory, separating its unintended positivist note from its interpretative nature, therefore highlighting the best characteristics of an already commendable method for qualitative research. Again, grounded theory provisions, as noted by Strauss and Corbin, are meant to be applied as guidelines. Charmaz succeeded in doing so. Had they been meant as strict rules they would have fallen in line with the positivist nature of research which the founders of grounded theory sought to avoid by creating an alternative to positivist research; therefore, the critique of Charmaz's constructivist grounded theory method should not stand.

Birks and Mills proposed possible appropriate situations to determine where the use of grounded theory is justified; this was as a means to deter researchers who are attracted to relatively straightforward methods without considering their appropriateness to research aims. They are, where; the phenomenon has not been entirely explored, with little known about it, the generation of theory from the research findings with explanatory power is the desired outcome, and the research situation contains an inherent process that the application of grounded theory methods will explain.[140] There has been little research into the militarisation of the Niger Delta region, especially concerning the illegalities and societal actions prompting the act, hence there was need for an inquiry into attaining some level of justice for the indigenous peoples of the region through the exploratory power of the theory generated from exploring the research situation.

Grounded theory method in its entirety, like all other research methods, does not come without its limitations. Kolb notes: 'the process of carrying out grounded theory is labour-intensive, requiring the researcher to invest time in the processes of analysis and data collection.'[141] I am of the opinion however that for such areas where there has been little research done, such attention to data collection and analysis can be beneficial. Data collected using grounded theory are deemed raw and unmediated, with the possibility of reflecting the actor's point of view.[142]

---

[140] Birks and Mills (n77) 16.
[141] S M Kolb, 'Grounded Theory and the Constant Comparative Method: Valid Research Strategies for Educators' (2012) 3(1) Journal of Emerging Trends in Educational Research and Policy Studies 83, 83.
[142] N Frost, S Nolas, B Brooks-Gordon, C Esin, A Holt, L Mehdizadeh and P Shinebourne, 'Pluralism in Qualitative Research: The Impact of Different Researchers and Qualitative Approaches on the Analysis of Qualitative Data' (2010) 10(4) Qualitative Research Sage Publications 1, 3-4.

Also, the choice of using Charmaz's constructivist grounded theory for a research based on the transformative paradigm, with the incorporation of constructivist and critical theory paradigm characteristics, provides an original contribution to knowledge, as highlighted above. Using the above method gave my research the structured approach, and compassion I believe is essential in research into the sensitive nature of indigenous peoples' lives.

Furthermore, being an area that is personal to me and my experience as an indigenous person, the question of prior knowledge contamination of the researcher's perspective arises. Here Suddaby clarifies that researchers to avoid this must ensure that they do not unconsciously test hypothesis, the focus should be on direct observations.[143] My consciousness that this was highly possibly assisted in eliminating this limitation. Furthermore, Suddaby's suggestion of being open to untethered new theories rather than shooting for the elaboration of existing theories comes into play.[144] My past knowledge however as noted above played an important role in the elite interviews, hence why one cannot completely rule out past experiences and literature's role in the grounded theory method. Suddaby notes that problem arises where researchers in a bid to avoid the close description of their methods decide that the grounded theory method is their way out.[145]

Hence the justification for a detailed methodology Chapter provided in this chapter. Important to note here is the assertion that grounded theory gives researchers sufficient strategies that allow them to assume control of their research practice and advance original ideas.[146] This flexible nature allowed me to incorporate structures into this research that fit naturally into the grand scheme ideas of the research's aim and objective. The constructivist grounded theory method was without a doubt the best method choice for answering the research question, allowing for both participants' and my expressions and interpretations to be reflected. Upon the commencement of this research thesis, there was the need for an empirically robust method to be applied; the constructivist grounded theory method was precisely this method.

---

[143] Suddaby (n108) 635.
[144] Ibid.
[145] Suddaby (n108) 633.
[146] Charmaz 2009 (n104) 475.

DATA COLLECTION TECHNIQUES

A strong empirical foundation is the first step towards ensuring that a research stands the credibility test. Data in grounded theory can take many forms, mixing the methods of collecting data is thus encouraged for research into social justice inquiry.[147] Elite interviews and documents analysis were the methods used for gathering data in this research thesis. The grounded theory methodology welcomes the use of all data. Charmaz opines that a mistake would be to pay regard to interview transcripts and field notes data only in grounded theory, this is because novice researchers are known to ignore other events and cues that occur in the process of collecting data.[148] Using different methods of gathering data in qualitative research is welcomed, they enable researchers to capture varied perspectives of the phenomenon, hence enhancing the transferability, generalizability, and significance of the research.[149]

Mertens, following the above, champions the use of two kinds of data collection methods in transformative paradigm research because according to her single methods do not have the potential to further human rights through research.[150] The use of single methods of collecting data in research has the potential to yield misleading results where the research aims to effect social change.[151] Hence there is the need to explore varied sources of data to ensure that researchers sufficiently grasp the realities of the indigenous communities. The use of both elite interviews and documents analysis in collecting data in this research provided sufficient findings that enabled the research question to be answered, and the research aim and objective achieved.

---

[147] Charmaz 2014 (n124) 327.
[148] Charmaz 2014 (n124) 111.
[149] Lisle (n71) 96.
[150] Mertens 2007 (n61) 212.
[151] Mertens 2007 (n61) 214 and 224.

THE CHARACTERISTICS OF ELITE INTERVIEWS AND THEIR APPLICATION TO THIS RESEARCH THESIS

Researchers are encouraged to use elite interviews in gathering data where the research involves the roles of memory and perception about a phenomenon.[152] Elite interviews provide insights that cannot be drawn from document analysis alone, hence making a coherent combination in this transformative paradigm led research thesis. Elite interviews both independently provided the research's principal data, and supplemented the limitations of using only data derived from documents. Creating the possibility of seeing through others' eyes provides researchers with a window into the depth and breadth perspectives of experts in the research phenomenon. Gathering data using interviews of all types, is the most common of all data gathering techniques in conducting grounded theory research.[153]

In elite interviews the participants being interviewed usually have some things they would like out in the open; whether done consciously or unconsciously, they have thought about what they want to say in the period between the interview invitation and the actual interview. Hence it is vital to make the open-ended nature and flexibility of elite interviews shine through the process. These elites do not like being placed under the restrictions of close-ended questions; they prefer to organize their answers in their framework. [154] Open-ended questions are however time-consuming. But this is something that a researcher can work around by developing the right skills, as I exhibited through the successful conduction of the interviews.

Elite interviews are also known to provide insight into the memories and interpretations of those who are considered elite. However, in defining elites, as noted in Chapter one, there is a broad understanding of the characteristics that should be included. Elites according to Richards's are:

---

[152] J Hochschild, 'Conducting Intensive Interviews and Elite Interviews' (2009) Workshop on Interdisciplinary Standards for Systematic Qualitative Research http://scholar.harvard.edu/jlhochschild/publications/conducting-intensive-interviews-and-elite-interviews accessed 17 September 2017 .

[153] J Corbin and A Strauss, Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory (4the Edition, Sage Publications 2015) 7.

[154] J D Aberbach, 'Conducting and Coding Elite Interviews' (2002) 35(4) Political Science and Politics 673, 674.

> A group of individuals, who hold, or have held, a privilege position in society and, as such, are likely to have had more influence on political outcomes than general members of the public.[155]

The participants here besides being indigenous, are influential and well informed in the research area. Following the broad understanding of defining elites, on the one hand, elites are regarded as individuals who hold or have held privileged positions in society, while on the other they are regarded as experts possessing qualified knowledge.[156] For example 'elite athletes' in research, by definition, were regarded as those who outperform their peers in a superior, consistent manner.[157] Defining elite is thus unique to each research. In the adoption of the above definition by Richards, this research thesis presented a definition of elites which suits its purpose, as noted in Chapter one of this research thesis. For this research, elites are those members of society, who hold high ranking status, not necessarily government officials, but those that are knowledgeable in the affairs of the society and are in positions to make a difference through their status. They have decision-making influence in the society; in simple terms, they are those with social power.

A proposed layout for elite interviews includes; participants being aware that they have participated in the situation, necessary reviews by researchers arriving at a provisional analysis, basing the interview guide on the analysis, and lastly, results of interviews being based on the definition of the situation as provided by the participants.[158] For the researcher, elite interviews assist in drawing a connection between key events and policy decisions. Elite interviews, coupled with a transformative paradigm, as in this research, have been shown to improve both society and individuals. For example, research conducted in 1995 with Israeli political leaders demonstrated how women benefitted from the challenging of perspectives, mutuality, and

---

[155] Quote included in-text in A Boucher, A Mahboob and L Dutcher, 'Power and Solidarity in Elite Interviews' Paper for the American Political Science Association General Meeting (2013) Chicago 1,3.
[156] Ibid.
[157] M A Grant, 'Analysis and Description of Olympic Gold Medalists' Competition-Day Routines' (2013) 27 The Sports Psychologist 156, 156.
[158] See generally A Kezar, 'Transformational Elite Interviews: Principles and Problems' (2003) 9(3) Sage Publications 395-415 http://observatory-elites.org/wp-content/uploads/2012/06/feminist_narrative_interviewing.pdf accessed 17 September 2017.

trusting environments to share concerns.[159] The interview is understood as a social event based on the interaction between the interviewer and the interviewee. According to Birks and Mills:

> Research using the grounded theory method is often geared towards the understanding of the world of individuals from a particular perspective; hence participant-led interviews such as elite interviews are the most common source of data and have reportedly been the dominant choice of data collection method with possible supplements from other data collecting methods.[160]

Methodological issues with elite interviews involve questions of legitimacy and accuracy;[161] the researcher has the burden to prove both. Important to note here however is that the thorough application of the constructivist grounded theory disregards both these questions. In elite interviews, the vagaries of human interaction can arguably influence what is said and what is interpreted, particularly in situations where the interviews are meant to ascertain accurate reflection on a series of events.[162] Theoretical sampling and writing up memos promotes the legitimacy of the research as they incorporate accounting for the information gathered. Paying particular attention to this research thesis aim, which proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation, using the semi-structured nature of elite interviews which have been found to work in policy making,[163] was the most suitable choice.

The elite interviews conducted in this research were semi-structured. The decision to opt for semi-structured interviews (also regarded as qualitative interviews by researchers) was because I did not want to constrict participants' views and responses, and the characteristics of the elite interviews ensured that this was achieved. Ensuring that participants accounts are what forms the analysis and theoretical content is essential to the research's aim, using the semi-structured interviews is core to achieving this aim. According to Bryman:

---

[159] Ibid.
[160] Birks and Mills (n77) 66.
[161] J M Berry, 'Validity and Reliability Issues in Elite Interviewing' (2002) 35(4) Political Science and Politics 679, 679.
[162] Boucher et al. (n155) 5.
[163] Berry (n161) 679.

> So vital is the need for not constricting participants' responses that, in such semi-structured interviews, participants' rambling on is often encouraged as it gives insight into what researchers may then deem as relevant and important.[164]

Furthermore, with elites, it is important to build rapports, because as noted above, following their power positions, they prefer to articulate their ideas, which is why close-ended questions are never suitable when conducting elite interviews. My knowledge of the peoples' history and their background was particularly helpful in creating the rapport needed, although I was particularly careful that my prior knowledge did not come across as preconceptions, which is unacceptable in the grounded theory approach.[165] Important to note at this point is that all interviews conducted in this research were face-to-face, as face-to-face interviews are encouraged when questioning experts or leaders, elders, or ethnic minorities.[166] Interviews were conducted in places chosen by the respondents and were recorded to promote a conversational style interview setting and also to prevent loss of information. They were conducted as anonymous contributions; even though the interviewees/participants were recruited based on their stance in society, there is no disclosure of their names or offices. This is important because another issue with these types of interviews is acquiring the trust of participants. To ensure that this was the case in this research thesis and further cement their trust participants signed consent and confidentiality forms.

Participants in the elite semi-structured interviews were selected following several conferences that I attended, one of which I obtained a certificate of participation for. They were mostly chaired by dignitaries from the Niger Delta and around Africa. The six face-to-face interviews were with participants who are indigenous and held/hold key positions in the Niger Delta region – positions such as monarchs, lawyers, honourable, and community leaders, as noted above. For confidentiality reasons, I have not named these participants, or present any form of a character trait or particular position that would make the information provided traceable to them in this thesis, or in any other work. Confidentiality was also aided by the decision to code and categorize data gathered together at the analysis stage of this research thesis. Each semi-structured, face-to-face interview lasted from 30 to 60 minutes, bearing in mind that elites are

---

[164] Bryman 2016 (n78) 466.
[165] Bryman 2016 (n78) 470.
[166] N Walliman, *Social Research Methods* (2nd Edition, Sage Publications 2016) 128.

usually busy people with limited time, which is a concern with such interviews. My personal experience with this was the various occasions where interview scheduled dates were cancelled, and I received the options of travelling to other States, and countries, to interview participants at times that were convenient for them. I managed to work around all of these issues, and successfully conducted all interviews needed.

In constructing grounded theory there are no set numbers of interviews for researchers to conduct. According to Charmaz: 'some grounded theorist have defended a very small number of interviews':[167] 'grounded theory is efficient, but that does not mean a handful of interviews produces a respectable study.'[168] Following this she asserted:

> The number of interviews conducted in a grounded theory research depends on the analytic level to which the researcher aspires as well as these purposes. When researchers pursue straightforward research questions to resolve problems… a small number of interviews may be enough.[169]

The number of interviews conducted were narrowed following the analysis of the data collected alongside conducting previous interviews, and also by the application of theoretical sampling and the constant comparative processes; all of are detailed following the process of analysis in grounded theory methods given below. The confidence in narrowing these interviews is further strengthened by the assertions that where small numbers of interviews have been conducted, researchers' choice to adopt the application of mixed qualitative methods, as is done in this research thesis where documents have been used to support the interview codes, strengthens the research study.[170] What is important, according to Charmaz: 'is the initial and emergent research questions and how the researcher conducted the study and constructed the analysis.'[171] As interview data was analysed categories emerged, these categories assisted in developing further interview questions and also in the selection of the documents analysed. The interview codes were used in the development of this research's theory.

The interviews recordings were transcribed manually. The decision to manually transcribe the recordings rather than use software programmes is encouraged by Suddaby's reminder of the

---

[167] Charmaz 2014 (n124) 105.
[168] Charmaz 2014 (n124) 107.
[169] Charmaz 2014 (n124) 106.
[170] Charmaz 2014 (n124) 107.
[171] Charmaz 2014 (n124) 108.

positivist notions attached to computer based programmes, which would ultimately fragment the process of conducting grounded theory of its interpretive nature, replacing it with more objectivist viewpoints.[172] The very nature of this transformative paradigm research rejects the objectivist viewpoints as noted above. The manually transcribed interviews are thus what then served as data. They were then analysed using the constructivist grounded theory method; through the application of the theoretical sampling and constant comparative processes. Each individual interview data was initially coded using the line-by-line method. Following this all of the six interviews transcribed and initially coded were axial coded together. The axial code chart for all interviews is presented in Appendix A, from which the relational statements were developed. The analytical process of the coding done is detailed below.

THE CHARACTERISTICS OF DOCUMENTS, JUSTIFICATION, AND THEIR APPLICATION TO THIS RESEARCH THESIS

Documents analysed were used to support the codes uncovered from the elite interviews. According to Bowen: 'document analysis is a process of evaluating documents in such a way that empirical knowledge is produced and understanding is developed.'[173] Despite interviews being the most common way of gathering data in grounded theory research, data collecting techniques in grounded theory are by no means limited, a range of materials are regarded as data.[174] According to Charmaz: 'although researchers often review documents, they tend to undervalue the potential that these documents have for theorizing.'[175] Birks and Mills notes: 'depending on the aims and focus of the research, documents can prove extremely valuable.'[176] Documents are public and private records containing information about a phenomenon, and as a result can provide a wealth of data, ranging from the official to the personal, the text-based and the image-based. These records can be both printed and electronic (computer-based). They are often used in combination with other qualitative research methods as a means of triangulation, which is the combination of methodologies in the study of the same phenomenon, which certifies credibility, protecting against claims of potential bias in cases where a single

[172] Suddaby (n108) 638.
[173] G Bowen, 'Document Analysis as a Qualitative Research Method' (2009) 9(2) Qualitative Research Journal 27, 33-34.
[174] Corbin and Strauss (n153) 7.
[175] Charmaz 2014 (n124) 45.
[176] Birks and Mills (n77) 82.

method or source has been used.[177] Researchers have thus been found to supplement participant observation, interviewing, and observation with gathering and analysing documents, Bowen notes: 'documents have served mostly as a complement to other research methods.'[178] Using this method of gathering data, as noted above, places in perspective the contextual and historical factors relating to discrimination and oppression, which is essential to transformative paradigm motivated research.

The wealth of information available in documents mean that the data derived from them will contain rich descriptions of the phenomenon.[179] Documents aid theory building when conducting grounded theory research.[180] Documents as a method of obtaining data were, however, not initially welcomed in grounded theory, with Glaser and Strauss's (the founding fathers of grounded theory) argument in 1967, that documents can: 'hardly be used as a chief source of data.'[181] It was following the evolution of grounded theory that this view was shifted. Charmaz's constructivist grounded theory, which this research applies as the method's/methodology approach, advocates for the use of documents as primary or secondary sources of data when carrying out grounded theory research.[182] Furthermore, using information from data that has detailed records of the phenomenon was of particular benefit to this research's aim which proposes actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation.

There is immense value in information from documents, especially when dealing with a phenomenon within a particular vicinity, as this research has done about the Niger Delta region. According to Charmaz: 'documents prove major form of data.'[183] The process of analysing the document data, however, corresponds to close text analysis which requires researchers to conduct deskwork; this is unappealing to qualitative researchers. Thus these researchers are known to neglect documents and texts. .[184] Documents in this research, as noted above, were

---

[177] Bowen (n175) 28.
[178] Bowen (n175) 29 and 30.
[179] Bowen (n175).
[180] Ralph, Birks and Chapman (n99) 1.
[181] Ralph, Birks and Chapman (n99) 2.
[182] Ibid.
[183] Charmaz 2014 (n124) 45.
[184] D Silverman, *Qualitative Research* (4th Edition, Sage Publications 2016) 153.

used to support the elite interviews conducted which present an entry for researchers into the social realities of the phenomenon, hence better-validating findings. The above is not to say that there is no validity or credibility in deskwork research. This research aim, which proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation, could not, in my opinion, have been achieved from complete reliance on deskwork document-based data. There is the need to supplement document data with semi-structured interviews and vice versa.

The transformative methodological assumptions, which includes the use of constructivist grounded theory method, encourage researchers to start with such methods of gathering data in the hope that it would further the researcher's knowledge about the community and form trusting relationships with community members.[185] Walking into the elite interviews, I found this extremely helpful, as previous knowledge of the peoples' struggles and being from the region automatically created an empathic atmosphere with the participants. However as mentioned above, I was careful not to let this knowledge promote preconceptions, which when done would result to tainting the adequate application of the grounded theory method. Furthermore, the content from documents assisted in the development of the codes from the elite interviews and vice versa.

Written materials are vital to research.[186] Documents in this research, before and after analysis, proved to be exceedingly beneficial. They partially guided the questions asked in the elite interviews by assisting in identifying gaps in both academia and the real world. They also provided analytical materials containing government and indigenous organisations' reports of indigenous peoples' struggles and demands concerning militarisation over the years. Although documents may sometimes be viewed as a hazard as according to Silverman, one must be careful not to allow their role in the research thesis to be one that is predominantly background-based, there should be regular cross-checking of oral accounts.[187] The above however is also an advantage because documents/paperwork are necessary when researchers venture into

[185] D M Mertens, 'Transformative Mixed Methods: Addressing Inequities' (2012) American Behavioural Scientist Published Online 1, 8.
[186] Lichtman (n103) 306.
[187] Silverman (n183) 155.

research work, and even in our everyday life as they have a means of tracking change and development, providing a window into the human mind.[188]

Despite documents being vital to research and the real world as noted above, some documents although confirmed to provide rich sources of data remain under-utilized in empirical legal research.[189] Documents have the uncontested advantage of informing and structuring researchers' decisions. They contain information about social practices, ranging from aspirations to intentions of issues concerning the phenomenon.[190] Documents help uncover events that predate the research phenomenon, assisting the researcher in indicating the conditions that inspired research into the phenomenon, whilst acting as a looking glass into the history of the phenomenon. Looking into library catalogues and newspapers provides the platform for the researcher to dig deeply for more historical information that will be useful in exploring the research area. In this research, the document data consisted primarily of official government, indigenous organisations' documents and newspaper reports.

A disadvantage of this method, however, is that it requires the researcher to search out information that sometimes may be hard to uncover, challenging researchers to find underlying meaning in the words of others and in their own words,[191] which favourably is what constructivist grounded theory is about. On the plus side these documents can be assessed whenever it is convenient for the researcher (an unobstructed source of information), and also time is saved in transcribing as it is already written material.[192] It requires data selection, instead of the time-consuming process of data collection. An advantage in using documents as a method in qualitative research is that many of such documents that the researcher will require are accessible to the public as a result of the Internet.[193] Hence help in curtailing the need for formal grants of permission that the researcher may require, as long as the researcher is diligent in citing the authors and sources of the materials.

---

[188] Lichtman (n103) 305.
[189] Webley (n81).
[190] Webley (n81).
[191] Lichtman (n103) 306.
[192] Creswell 2014 (n50) 192.
[193] Birks and Mills (n77) 82.

The documents analysed supported the interviews codes and emergent categories and contributed to the development of this research's theory. Their analyses were guided by both the theoretical sampling and constant comparative processes. It is important to detail how they were selected, as this forms part of the analysis of documents. According to Lichtman: 'deciding what to collect, what to do with it, and how to use these raw data to answer your research question is the challenge of doing qualitative research.'[194] The documents, as noted above, were selected following extensive research into the Niger Delta region and recommendations from interview participants. Interview participants however, did not provide me with copies of the recommended documents, these documents were sourced out from both libraries, and the internet. In the initial stages a wide range of documents, from a variety of sources were reviewed, these documents ranged from Constitutions and Declarations to magazine reports and newspapers.

The documents were reviewed whilst the interviews were being translated, analysed and coded; through these processes and their completion the documents were selected. The documents selected were based on their relationship to the phenomenon, emergent categories and their overall importance. The content and creation of the documents selected were thus based on data uncovered from the interviews conducted, documents not relevant were eliminated. Lichtman notes: 'written material should not be rejected without researchers looking at it, but it is likely that some sources, more than others, might prove relevant to your topic.'[195] According to Bowen:

> Researchers should establish the meaning of the document and its contribution to the issues being explored. The researcher as analyst should determine the relevance of documents to the research problem and purpose. Also, the researcher should ascertain whether the content of the document fits the conceptual framework of the study.[196]

I checked the data with interview codes, applying the constant comparative process. Through this I was able to identify the references and connections to the participants' accounts and experiences, ensuring that the theory developed was from indigenous peoples' accounts. It was in that tune that the I ensured that all documents selected had a relationship to the research. It was during this selection process that the documents were categorized into the three types.

---

[194] Lichtman (n103) 307.
[195] Lichtman (n103) 306.
[196] Bowen (n175) 33.

The three types are; official documents derived from the State, official documents derived from indigenous organisations, and newspapers. An example of the use of official documents derived from the State is seen in the research carried out by Thompson et al. in 2013, where they used UK Government policy documents from 2002-2011.[197] Such documents from the State are seen as materials of potential interest with high value to qualitative researchers, as are official documents derived from organizations and those in the form of mass-media outputs. Altogether the documents analysed in this research were nine (9) in number, Bowen notes: 'it should be about the quality of the documents and the evidence they contain, given the purpose and design of the study.'[198] A list of the documents analysed is provided in Appendix C, however below is a brief content summary of these documents;

Official documents derived from the State (Nigeria)

- **The Willinks Commission Report 1958** – this document was created by the British Imperial Government ruling over Nigeria following widespread agitations by ethnic minorities in Nigeria following demands of state divisions.[199]
- **The Etiebet Report 1994** – this document was created under the government of General Sani Abacha in Nigeria, following increased tensions in oil-producing communities in the Niger Delta region. This was done to ascertain the cause of the peoples' grievances, and the level of development, all of which led to the presentation of recommendations to assist in curbing the region's problems and reducing tension.[200]
- **The Ogomudia Report 2001** – this document was created under the Nigerian government following insecurities in the Niger Delta oil communities. A committee was set up with several references to tackle, amongst which was to appraise the negative impact that youth and community agitations have had in the Region until that time, whilst proposing measures to reduce this negative impact.[201]

---

[197] Bryman 2016 (n78) 552.
[198] Bowen (n175) 33.
[199] The Willink Commission Report; Conclusions and Recommendations http://eie.ng/wp-content/uploads/2014/03/TheWillinkCommissionReport_conc_recom_lt.pdf accessed 17 September 2017.
[200] The Technical Committee on the Niger Delta, 'Reports of the Technical Committee on the Niger Delta' (2008) Volume 1 18 http://www.waado.org/NigerDelta/niger_delta_technical_com/NigerDeltaTechnicalReport.pdf accessed 19 September 2017.
[201] The Technical Committee on the Niger Delta (n200) 27-28.

Official documents derived from indigenous organisations

- **The Ogoni Bill of Rights 1990** – this is a document created and signed by the Ogoni people, under the guidance of the Movement for the Survival of the Ogoni People (MOSOP), of the Niger Delta region, and presented to the Nigerian government. They, in the document, demanded the right to control their resources, the right to adequate representation, and political autonomy, amongst others.[202]
- **The Kaiama Declaration 1998** – this document was created by the youths of Kaiama in Bayelsa State, located in the Niger Delta Region, and presented to the Nigerian government. What the document does is: 'attribute political crisis in Nigeria to the struggle for the control of petroleum resources, and propose a number of resolutions, amongst which is that all lands and natural resources within the territories belong to the indigenous Ijaws living in the communities.'[203]
- **The Niger Delta Peoples' Compact 2008** – this document was created following a meeting facilitated by Action Aid Nigeria with representatives from the nine states representing the Niger Delta Region and key opinion leaders. The document's focus was on the withdrawal of troops from the region, control of resources and social re-orientation for communities, amongst others.[204]

Media Reports – various newspaper reports from the independent news houses given below were reviewed, and consequently analysed.

- **The Guardian Nigeria** - S Awhefeada, 'Urhobo, Niger Delta and NDGJM' 27 October 2016
- **Daily Trust Nigeria** - A Jimoh, '10 Major Problems Nigeria will Carry Over into 2017' 24 December 2016
- **Vanguard Nigeria** - [1] E Amaize, 'Militants: Buhari's Threat Tears N-Delta Leaders Apart' 3 October 2016

---

[202] See generally MOSOP, 'The Ogoni Bill of Rights' 1990 http://www.bebor.org/wp-content/uploads/2012/09/Ogoni-Bill-of-Rights.pdf accessed 19 September 2017.
[203] Human Rights Watch, 'The Kaiama Declaration' 1998 https://www.hrw.org/reports/1999/nigeria2/Ngria993-02.htm accessed 19 September 2017.
[204] The Technical Committee on the Niger Delta (n200) 46.

The above documents were coded and analysed using the constructivist grounded theory method; through the application of the theoretical sampling and constant comparative processes. I checked the emergent categories from the documents analysed with those uncovered from the interview codes, checking how they develop already emergent categories. Important to note here is that each document, from all types, was initially coded individually, but then axial coded together based on their listed types. That is the Willinks Commission Report, the Etiebet Report, and the Ogomudia Report were axial coded together as official documents derived from the state and presented in Appendix B, B3. The Ogoni Bill of Rights, the Kaiama Declaration and the Niger Delta Peoples' Compact were axial coded together as official documents derived from indigenous organisations and presented in Appendix B, B2. The listed newspaper articles above, from the Guardian, Daily Trust and Vanguard Nigeria were axial coded together as newspapers and presented in Appendix B, B1. It was from the above charts that the relational statements were developed.

USING GROUNDED THEORY'S CODING TO ANALYSE THIS RESEARCH THESIS'S INTERVIEWS AND DOCUMENTS' DATA

Data analysis and the drawing of conclusions and findings from the data have been found to bring about the most disagreements when carrying out qualitative research.[205] Hence the need for a detailed account of how this was carried out in this research thesis is essential. Different researchers have different preferences about analysing data, and this often relates to the nature of the research being carried out. Upon commencement of my research, using the constructivist grounded theory as a method of analysing elite interviews and documents data was paramount. This was so because I was, and still am, fascinated by the analytical structure that the method proposes whilst remaining academically sound. Furthermore, the entire process, which allows for the emergence of participants' reflections, was of key importance to my research thesis as a whole, as the research's objective from the exploration of indigenous experiences ultimately proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation.

[205] Webley (n81) 940.

Grounded theory as a method of analysing data has become one of the most widely used frameworks in qualitative research.[206] As an analytical method, grounded theory inarguably has strong points, all of which cannot be listed here, but one real advantage to note occurs during coding,[207] where analysis starts as soon as data collection begins in the case of interviews. The analysis of grounded theory is widely regarded as one of its most valuable strengths, using constant comparative analysis consisting of explicit coding and analytic procedures. The constructivist grounded theory method applied in this research thesis champions the over-efficient completion of analysis through knowledge, with the aim of becoming as close to the empirical realities as possible.[208] Data from this research were analysed using Charmaz's 2006 grounded theory method of coding data which according to Charmaz, 'generates the bones of your analysis,'[209] with a combination of Strauss and Corbin's 1998 grounded theory, and supported by Sargent's 2009 choice to combine both methods.[210]

Coding is one of the central processes in grounded theory;[211] it is essentially a technique/tool that aids the researcher's ability to identify what is categorized as data and make remarks on these.[212] Coding according to Charmaz:

> Means naming segments of data with a label that simultaneously categorizes, summarizes and accounts for each piece of data. Moving beyond concrete statements in the data to making analytical sense of stories, statements, and observations.[213]

Using grounded theory as the method for analysis allows for the establishment of themes across the participants' data, underlining crucial issues.[214] Furthermore, interpretation using Charmaz's approach is contingent on the researcher's knowledge of the participants and their situations.[215] The advantages of using grounded theory when analysing data, as mentioned above, are strong; it promotes flexibility and creativity in the approach to inquiry, there is

---

[206] Bryman 2016 (n78) 572.
[207] J A Holton, 'The Coding Process and its Challenges' (2010) 9(1) An International Journal 265, 265.
[208] Charmaz 2009 (n130) 131.
[209] Charmaz 2014 (n124) 113.
[210] Sargent (n102).
[211] Bryman 2016 (n78) 573.
[212] Charmaz 2014 (n124) 112.
[213] Charmaz 2014 (n124) 111.
[214] The Grounded Theory Method of Analysis in the Home/Work Study http://www.lancaster.ac.uk/fass/projects/homework/Docs/Strand%202-Grounded%20theory%20Data%20Analysis.pdf accessed 17 September 2017.
[215] Charmaz 2009 (n130) 131.

openness in creating a new theory, and there is a well-defined analysis procedure, amongst others. Analysing data in grounded theory ensures that the meanings behind actions are explored,[216] this is of particular relevance to this research whose objective is geared towards legally protecting the indigenous peoples of the Niger Delta region against militarisation through the proposed actionable-based policy recommendations in Chapter five.

Researchers when coding in analysing grounded theory data, according to Strauss, should exercise care; they should pay attention to causal conditions and the consequences of actions.[217] Researchers must be reminded not to cut and paste sets of concepts into the realities in the field when conducting research that requires inquiries into the social structure of the phenomenon. They are to begin inquiry and evaluation while bearing the how, when, what and which conditions, to which the concept of the research becomes relevant.[218] The three coding steps used in this research were initial, axial and theoretical coding. Researchers must diligently follow through all three processes of coding when applying the grounded theory method. Researchers must ensure that they do not omit a step in the coding process, grounded theory is more productive when all three coding stages are employed; skipping the coding steps is unacceptable.[219]

Charmaz's grounded theory proposes initial coding as the first step of the analysis. What initial coding entails is the reading of data, during which the researcher stays certain that they are open to all possible theoretical directions from reading.[220] Through the comparison of data with data, what is seen as problematic by participants both in written text and transcribed data, is identified and the researcher then proceeds to deal with these problems analytically.[221] The initial codes, besides being comparative, are also provisional in that the researcher aims to remain open to other analytic possibilities,[222] and the researcher may reword codes to improve

---

[216] Charmaz 2014 (n124) 326.
[217] A Böhm, 'Theoretical Coding: Text Analysis in Grounded Theory' In U Flick, C Kardorff and I Steinke (eds), *A Companion to Qualitative Research* (London Sage Publications 2004) 270, 273.
[218] Charmaz 2014 (n124) 327.
[219] Larossa (n107) 840.
[220] Charmaz 2014 (n124) 113.
[221] Charmaz 2014 (n124) 116.
[222] Charmaz 2014 (n124) 117.

how they fit into the data,[223] prompting the researcher to see areas where there are gaps in the required data.[224] The methods of initial coding of data vary. Charmaz suggests that the questions asked during initial coding should be: 'What is this data a study of? What do the data suggest? Pronounce? Leave unsaid? From whose point of view? What theoretical category does this specific datum indicate?'[225] Charmaz further suggests the need to see actions in each segment of data rather than applying pre-existing categories to the data; researchers should attempt to code with words that reflect actions at first glance.[226] What this will prevent are researchers' tendencies to make conceptual leaps and adopt extant theories before doing the necessary analytical work.[227] Researchers may forge links between actions and larger social processes that take the grounded theory research beyond the immediate individuals or settings.[228]

In this research, the initial codes from both the elite semi-structured interviews and the documents were handwritten, with memos on the side, keeping track of what prompted the choices of data and emergent categories. With particular reference to the document data, it was essential to keep track of referencing/source of each document. The idea behind keeping track of the referencing/source is because all initial codes from various documents were merged to promote theoretical sensitivity and saturation. At the end of analysing the theory/theories created, references were made back to the contents that support such analysis.

After initial coding comes axial coding, which is a strategy used by Strauss and Corbin to ensure that data, when brought back together from being separated into pieces in the initial coding stage, is coherent.[229] It is best used for research consisting of a preset structure.[230] Axial codes typically represent categories that describe the initial codes. It is termed 'axial' because coding occurs around the axis of a category, linking categories at the level of properties and

---

[223] Charmaz 2014 (n124) 118.
[224] Charmaz 2014 (n124) 117.
[225] Charmaz 2014 (n124) 116.
[226] Ibid.
[227] Charmaz 2014 (n124).
[228] Charmaz 2014 (n124) 133.
[229] Charmaz 2014 (n124) 147.
[230] Charmaz 2014 (n124) 148.

dimensions.[231] The process of axial coding enables researchers to apply analytical frameworks to data derived in their research; this may have the deflating effect of limiting what researchers learn about their studied world.[232] Hence Charmaz here warns against imposed frameworks.[233] Researchers in the process of axial coding have the opportunity to structurally fit themselves into coding methods that they believe would work for them, with justifications for their choice. The process of axial coding, despite its structural advantages, is, however, one of the most criticized areas of the grounded theory method. Glaser, one of the founding fathers of the grounded theory method, is of the opinion that it is unnecessary, preferring selective coding; additionally, some researchers have raised their concerns regarding the action-oriented nature of this method of coding.[234] The action-oriented nature is regarded as a valued strength of the grounded theory method of analysis by some because it supports the possibility of achieving a well-structured theory, others, however, assert that the process distorts the theorizing process which results in a deviation from the true grounded theory.[235]

Despite the above arguments of characteristics of axial coding not being true to the grounded theory method, this research supports the use of axial coding because such restrictions on how the method should be applied in research expose the grounded method to more positivist schools of thought. The adoption of Charmaz's flexible method has been established not only in academia but the research world. This has allowed researchers like me to adopt styles from other accepted grounded theory methods in achieving the aims of the research. Support for the use of the flexible nature of Charmaz's grounded theory is promoted by Mertens in the adoption of the transformative paradigm.[236] This involves constant comparison between data, which is the main core of doing grounded theory research. This assisted in giving the research a structured form as axial coding does. What I as the researcher did was link concepts and categories through constant comparison, which in turn formed the idea of an emerging theory. Strauss and Corbin are reported to have described the axial coding strategy as: 'one which is

[231] See generally J Strauss and A Corbin, 'Grounded Theory Research: Procedures, Canons and Evaluative Criteria' (1990) 13(1) Qualitative Sociology 3.
[232] Charmaz 2014 (n124) 149.
[233] Creswell 2013 (n82) 196.
[234] Charmaz 2009 (n104) 466-467.
[235] G Goldkuhl and S Cronholm, 'Adding Theoretical Grounding to Grounded Theory: Toward Multi-Grounded Theory' (2010) 9 International Journal of Qualitative Methods 63, 69.
[236] Mertens (n49) 294.

called the paradigm in which a phenomenon is analysed in terms of its context, conditions, and consequences.'[237]

According to Strauss and Corbin, when revealing further relationships among the categories through axial coding:

> There are conditions, a conceptual way of grouping answers to the questions why, where, how come and when. These together form the structure, or set of circumstances or situations, in which phenomena are embedded. There are actions/interactions, which are strategic or routine responses made by individuals or groups to issues, problems, happenings or events that arise under those conditions. Actions/interactions are represented by the questions by whom and how. There are consequences which are outcomes of actions/interactions. Consequences are represented by questions as to what happened as a result of those actions/interactions or the failure of persons or groups to respond to situations by actions/interactions, which constitutes an important finding in and of itself.[238]

The questions asked here are the what, when, where, why, how and the consequence of all previous answers to the previous questions, with the researcher taking the role of investigative reporter to an extent. These questions assist researchers like me in describing the studied experience fully; this is despite the fact that Corbin and Strauss have pointed out that linking these relationships between categories occurs at a conceptual, not descriptive level.[239] According to Scott; 'answering these questions weaves the loose array of concepts and categories we unraveled and sorted in open coding (in this instance initial coding) back together into a pattern.'[240]

In this research, the axial codes from both the elite semi-structured interviews and the documents were presented in a table format created by Sargent in her academic research

---

[237] H Priest, P Roberts and L Woods, 'Qualitative Approaches: An Overview of Three Different Approaches to the Interpretation of Qualitative Data. Part 1: Theoretical Issues' (2002) 10(1) Nurse Researcher 30, 34.
[238] A Strauss and J Corbin, *Basics of Qualitative Research: Techniques and Procedures for developing Grounded Theory* (Sage Publications 1998) 136.
[239] Charmaz 2014 (n124) 147.
[240] K W Scott, 'Relating Categories in Grounded Theory Analysis: Using a Conditional Relationship Guide and Reflective Coding Matrix' (2004) 9(1) Qualitative Report 113, 115.

thesis,[241] as suggested by Scott in her Conditional Relationship Guide,[242] answering the questions proposed by Strauss and Corbin.[243] Using this chart satisfies Strauss and Corbin's suggestion of using diagrams to explain and illustrate patterns that exist during axial coding. This is because according to the authors, the diagrams aid the researcher's focus towards a theoretical explanation of the phenomenon.[244] The axial code charts developed for both elite interviews and the documents can be in Appendix A and B. The codes from the axial code charts were then presented in an analytical format of relational statements for both the interviews and the documents.[245] Relational statements provide a broad analytical account of what is going on.[246] The critical and constructive analyses presented in Chapters three and four are following the presentation and discussion of these relational statements, within which the process of constant comparative analysis, esteemed in the grounded theory method is applied.

Lastly is the theoretical coding phase, which preludes the necessity for axial coding; it was introduced to move the analytical story in a theoretical direction.[247] Glaser was said to have introduced this last stage of coding as conceptualizing: 'how the substantive codes may relate to each other as hypotheses to be generated into a theory.'[248] Of the number of criteria that may be used to assess qualitative research, theoretical development is often at, or near, the top.[249] They are advanced abstractions that provide a framework for enhancing the explanatory power of the research findings and its potential of emerging as a theory or theories.[250] One of the most important strengths of grounded theory is theory building, which implies good traceability between data, categories, and theories, and also means that there are good possibilities for a transparent process that increases the credibility of the study.[251] Simply put, theoretical coding

---

[241] Sargent (n102).
[242] K WScott, 'Clarifying Analysis and Interpretation in Grounded Theory: Using a Conditional Relationship Guide and Reflective Coding Matrix' (2008) 5 Occupational Science and Occupational Therapy Faculty and Staff Research 1, 3.
[243] Scott (n240) 117-118.
[244] Scott 2008 (n242) 3.
[245] Sargent(n102) 71.
[246] J Lawrence and U Tar, 'The Use of Grounded Theory Technique as a Practical Tool for Qualitative Data Collection and Analysis' (2013) 11(1) Electronic Journal of Business Research Methods 29, 33.
[247] Birks and Mills (n77) 123.
[248] Charmaz 2014 (n124) 150.
[249] Larossa (n107) 855.
[250] Birks and Mills (n77) 123.
[251] Goldkuhl and Cronholm (n235) 67.

is the process used to discover relationships between codes and categories with the potential to discover a theory,[252] hence the merging of concepts into groups.

Birks and Mills describe theoretical coding as: 'a result of the interaction between the researcher and data.'[253] What they do essentially is to lend form to the codes that have been gathered in the research, helping researchers tell analytical stories that are coherent, whilst simultaneously moving the analytical stories towards the direction of a theory or theories.[254] Foster Fei, a proponent of Glaser's grounded theory approach, described the use of theoretical coding, in his research experience: 'as a way of ensuring substantive codes hang together conceptually.'[255] They assist researchers in pinpointing the relationships developed through the axial coding process.[256] Hence, Saldana in describing them, stated: 'theoretical code functions like an umbrella that covers and accounts for all other codes and categories formulated thus far in grounded theory analysis.'[257] The analytical content that comes with the theoretical coding process is welcomed, as it makes evident the clarification of specific conditions under the phenomenon.[258] The final product of grounded theory is an integrated and comprehensive grounded theory that explains a process or scheme associated with a phenomenon.[259]

The generation of a theory is the end product of conducting a grounded theory research.[260] Following the process of theoretical coding, the theory developed in this research thesis was presented in a model and discussion/descriptive format in Chapter five. The grounded theory method, as asserted in the preceding sections of this chapter, generates what can be classed as a description of the processes in social situations through its defining feature of constant comparison and theoretical sampling; hence the nature and choice of a discussion/descriptive theory are academically justified as a choice for this research thesis. However, more recent interpretation of the grounded theory method has opted for the creation of models, which are

---

[252] Cho and Lee (n88) 8.
[253] Birks and Mills (n77) 127.
[254] Charmaz 2014 (n124) 150.
[255] Birks and Mills (n77) 124.
[256] Charmaz 2014 (n124) 150.
[257] J Saldana, *The Coding Manual for Qualitative Researchers* (3rd Edition, Sage Publications 2016) 250.
[258] Charmaz 2014 (n124) 151.
[259] Birks and Mills (n77) 12.
[260] M Birks and J Mills, *Grounded Theory: A Practical Guide* (2nd Edition, Sage Publications 2015) 115.

abstract representations of the larger picture.[261] It is by following this model that interpretation of the theory, based on the visual representation of the model through discussion/description, is made.

In constructing grounded theory, the theory here represents versions of the data collected. In so doing, the participants' perception of the phenomenon is successfully reflected in the theoretical underpinnings. Theories here answer the question of 'what', which is of particular relevance to this research whose question was answered according to the views and reflections of the indigenous peoples in the Niger Delta on factors that have motivated the Nigerian government's decision to militarise their communities. Hence the theory is a unified explanation of the participants' reflections and my interpretation as the researcher. The theory created ensured that the research objective was achieved, hence the proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation, presented in Chapter five.

Within the constructivist view that is entrenched in the application of Charmaz's constructivist grounded theory, realities are multiple and a multiplicity of perspective results.[262] Charmaz maintains that unlike other versions of the grounded theory method, the constructivist grounded theory promotes the mutual construction of knowledge by the researcher and participants, through the discussion of ideas in interviews and beyond.[263] In this research thesis, the data incidents are interwoven with the theoretical elements; the social reality of the indigenous peoples in the Niger Delta was reflected in the participants, the documents and my delivery as the researcher. In all of the above, one is prompted to remember and understand the uniqueness of this approach to my research thesis. It is within this uniqueness that I proceeded to detail in Chapter five the academic journey to the creation of this research's grounded theory. Pulling this analysis from the methodology chapter and including it in the final chapter provided an academic map and justification of the theory and its creation.

---

[261] Ibid 135.
[262] Charmaz 2014 (n124) 240.
[263] G Alemu, B Stevens, P Ross and J Chandler, 'The Use of a Constructivist Grounded Theory Method to Explore the Role of Socially-Constructed Metadata (Web 2.0) Approaches' (2015) 4 Qualitative and Quantitative Methods in Libraries 517, 523.

In summary, it is through the three phases of coding that theoretical directions are made evident in the grounded theory method, processes become visible, the connections between codes emerge, leading to the precision of the questions asked about the data.[264] Throughout all of the appraisal of the coding process, it has not been without criticism; there is a need for precision in whatever route researchers choose to take, and also the avoidance of preconception. I managed this by paying particular attention to the concept of theoretical sensitivity which directly influences the coding process. Charmaz recommends that theoretical sensitivity will assist researchers in bringing analytic precision to their work, and increase the analytic power of the codes.[265] Charmaz describes theoretical sensitivity as:

> The ability to understand and define phenomena in abstract terms and to demonstrate abstract relationships between studied phenomena. With this type of sensitivity, grounded theorists discern meanings in their emergent patterns and define the distinctive properties of their constructed categories concerning these patterns. Thus theoretical sensitivity enables grounded theorists to construct analytic codes leading to abstract concepts that have clear empirical indicators and can be distinguished from other concepts.[266]

Following the above analytical justification for the constructivist grounded theory method of analysis used in this research thesis, a summary of the coding process of analysis is needed. In summary, the initial coding for both interviews and documents data was carried out using the line by line format of coding, as detailed above. Following the individual initial coding of the individual interviews and documents data, all codes for the individual data collection type were brought together as a whole. The interview codes were then gathered together, and the axial coding was done. For the documents, each of the documents initially coded were grouped together based on their types, and the axial coding was also done. Through the process of axial coding, the charts in Appendices A and B were developed from the data coded; for the interviews, Appendix A was developed, and for the documents analysis Appendix B was developed. Following this, relational statements were created for each data type, for the interviews the discussion of the relational statements within the critical and constructive nature of this research was presented in Chapter three; the same was done for the documents in Chapter four. It was from the build-up of these analyses that a unified theory was developed

[264] Charmaz 2014 (n124) 161.
[265] Charmaz 2014 (n124) 160.
[266] Charmaz 2014 (n124) 161.

explaining the social and legal factors that have motivated the Nigerian government's decision to militarise the Niger Delta Region.

THEORETICAL SAMPLING, CONSTANT COMPARATIVE ANALYSIS AND MEMO WRITING

The processes of theoretical sampling, constant comparative analysis, and memo writing are all instrumental to the grounded theory process of coding; they are essentially the process of refinement, coding, and saturation.[267] The process of theoretical sampling and constant comparative analysis are significant strategies in the grounded theory method;[268] their thorough application by researchers in the method ensures that the positivist assumptions in research methods are avoided.[269] Glaser and Strauss notes:

> Theoretical sampling is the process of collecting data, used in conjunction with the levels of coding, for comparative analysis, whilst the constant comparative analysis entails an iterative process of concurrent data collection and analysis involving systematic choice and study of several comparison groups.[270]

Theoretical sampling means checking the emergent theories against the reality by sampling incidents that may challenge or elaborate its developing claims until there are no new concepts, and until saturation is reached.[271] What happens with the grounded theory method is that it evolves during the research process: 'it is a product of continuous interplay between analysis and data collection.'[272] The comparative analysis nature of grounded theory leads researchers to go back and forth between analysis and data collection because each informs and advances the other. Using the comparative approach in an iterative process keeps grounded theorists interacting with their data by asking analytic questions of these data and emerging analysis.[273] This is the process of coding. Constant comparative analysis exposes the inductive nature of grounded theory, building theory from data.

---

[267] Alemu, Stevens, Ross, Chandler (n263) 534.
[268] Kolb (n141) 83.
[269] Suddaby (n108) 634.
[270] Glaser and Strauss (n110) 9.
[271] Birks and Mills (n77) 10.
[272] J Burden and G Roodt, 'Grounded Theory and its Application in a Recent Study on Organizational Redesign: Some Reflections and Guidelines' (2007) 5(3) Journal of Human Resource Management 11, 12.
[273] Charmaz 2013 (n3) 294-295.

Another unique characteristic necessary to the grounded theory method is memo writing; it informs theoretical sampling; without memo writing there would be no grounded theory. According to Gbrich: 'it is a notable difference which applies to the constructivist grounded theory approach,'[274] which Clarke referred to as 'intellectual capital in the bank'.[275] Memo writing is the documentation/written analysis of the journey through coding and a constant comparison of events, categories or relationships between categories, used to record the analytical development of the research, ensuring that the participants' voices are maintained. The emergence of concepts and categories here is interactive (constructive) not objective. Birks and Mills notes:

> It occurs when researchers want to find out more about the properties of a category, conditions that a particular category may exist under, the dimensions of a category, or the relationship between categories.[276]

Memo writing assisted me in ensuring that the research was not influenced by bias; as noted above, my experience and origin inspired my research topic/area choice, hence contrary to traditional grounded theory beliefs I did not enter into the field without any knowledge of my research area. I am of the opinion that research is better executed when it is influenced by ones' life experiences. Writing memos helped in recording my assumptions, rather than simply using what I had discovered and experienced from both analysing documents and conducting the elite interviews. Whilst conducting the interviews, I made notes in the form of memos, reflecting what I learned from the interviews and how to apply the knowledge to collect more data; this was done in addition to my recordings. My written impressions about the information collected and reactions from each interview were then compared and used to support my recordings. For the documents, as I analysed each one, I made notes on my impressions of the consolidation of the documents, which I found extremely helpful in my analysis. The memo writing was used as a guide for noting the change and development of my ideas and concepts. Comparing these ideas and concepts evidenced similarities and differences, and assisted in decisions on whether to conduct more interviews or analyse more documents, hence supporting the concept of theoretical saturation or sufficiency.

---

[274] Grbich (n79) 88.
[275] Birks and Mills (n77) 10.
[276] Birks and Mills (n77) 11.

REACHING THEORETICAL SATURATION OR SUFFICIENCY

Grounded theory's method's analytical case is built from the constant comparison and theoretical sampling of data;[277] through this process, new categories emerge; the question then is when do researchers ascertain that there are no new categories emerging from the data? Another essential characteristic of the grounded theory method is theoretical saturation. Theoretical saturation occurs when the collection and analysis of data provide no new categories when data are being coded.[278] All researchers seek to reach this point when conducting grounded theory. Theoretical saturation essentially relates to two phases in grounded theory: the collection and coding of data.[279] Once it is reached, the process of theoretical sampling is brought to a complete stop. It was introduced by Glaser and Strauss, the founding fathers of grounded theory, to describe the criterion for when to stop theoretically sampling for data pertinent to a category.[280] When it is reached, there is no new information from the field that dispels or contradicts the theory, meaning data analysis is done while gathering data.[281] According to Charmaz:

> You have defined, checked, and explained relationships between categories and the range of variation within and between your categories but have found no new properties of these categories.[282]

Its achievement in all research is vital because where researchers fail to reach theoretical saturation, theories developed will be uneven and lacking in density and precision.[283] Despite this, key areas of confusion are present when dealing with theoretical saturation, hence the need for a critical analysis of its underpinnings and detail of how I reached saturation in this research thesis.

Suddaby notes:

> A key point of confusion in grounded theory is the question of knowing when

[277] M Jones and I Alony, 'Guiding the Use of Grounded Theory in Doctoral Studies – An Example from the Australian Film Industry' (2011) 6 International Journal of Doctoral Studies 95, 107.
[278] J Nelson, 'Navigating Grounded Theory: A Critical and Reflective Response to the Challenges of Using Grounded Theory in an Education PhD' (2015) 4 Critical and Reflective Practice in Education 18, 19.
[279] Bryman 2016 (n78) 573.
[280] Birks and Mills (n77) 99.
[281] Lichtman (n103) 108.
[282] Charmaz 2014 (n124) 213.
[283] Lichtman (n103) 111.

> saturation has occurred during data collection. Because grounded theory research uses iteration and sets no discrete boundary between data collection and analysis, saturation is not always obvious, not even to experienced researchers… It is a 'box' that must be 'checked off' prior to publication.[284]

In light of the above, there have been various suggestions as to when saturation occurs. Strauss and Corbin opine that saturation is reached at the point where the analysis derived becomes counter-productive, and the discovery does not add anything new to the categories or theories.[285] Glaser opines that through the process of constant comparison theoretical saturation is reached when new categories are not emerging.[286] According to Nelson, saturation in qualitative research suggests that the researchers have reached the point where the sources of data have been exhausted.[287] The above assertions raise questions about the actual meaning of 'saturation' and whether what best describes the process is 'sufficiency', and also opens questions of its credibility and accuracy.

Dey, supported by Charmaz, opines:

> The term 'saturation' is one which suggests that researchers are unable to code all the data, questioning the legitimacy of researcher's claims of reaching saturation, what he argues then is that the term 'theoretical sufficiency' better fits how researchers conduct grounded theory.[288]

What Dey suggests is that theoretical saturation, as expressed, does not mean exhaustion of data, what it means is the full development of a category (sufficiency). This view has been defended by researchers, who now, instead of proclaiming that they have reached saturation, opts to label the process as reaching 'theoretical sufficiency'. Sargent notes:

> Despite disagreement between scholars on whether a true state of saturation can be reached, on ways to determine if the state of saturation has been reached, or even on the utility of such a concept within grounded theory methodology, there is agreement that the function of this, as is the function of the concept of theoretical sufficiency, is a measure that the emergent or emerging theory is suitably robust and provides a comprehensive account of the data that has been

---

[284] Suddaby (n108) 639.
[285] Strauss and Corbin (n238) 136.
[286] See generally J Holton, 'The Coding Process and its Challenges' (2010) 9(1) Grounded Theory Review an International Journal; The Sage Handbook of Grounded Theory 1.
[287] J Nelson, 'Using Conceptual Depth Criteria: addressing the challenge of reaching saturation in qualitative research' (2016) *Qualitative Research.* Queen's University Belfast 1, 5.
[288] Charmaz 2014 (n124) 215.

analysed.[289]

Charmaz asserts that theoretical saturation is a subjective exercise and that the interpretive approach of the constructivist grounded theory method acknowledges the importance of such subjectivity.[290] In line with this school of thought comes further argument against the nature of saturation which, according to Suddaby, invites a fundamental drift towards positivism.[291] Within the transformative view of this research thesis that is developed around the constructivist and critical theory characteristics, this drift towards the school of positivism tied to the concept of theoretical saturation is not suitable, hence the choice to opt for the use of the 'theoretical sufficiency' in achieving saturation. In light of this, it is necessary to understand that there is always the possibility that issues other than those covered by the current research exist in the wider world.[292]

This research thesis, within its transformative view, was geared towards asserting the achievement of theoretical 'sufficiency'. This approach was preferred following the understanding that there is a world of data available, and sufficiency meant reviewing a substantial amount of data that would ensure that the research question was answered. As noted above, a distinct characteristic of grounded theory is its encouragement of analysing data whilst gathering data. Analysing the data in this way meant that categories were revealed early, and where it was necessary to gather more data, or adjust the depths of questions asked, this was easily achieved. After the interviews were conducted and analysed, the document analysis was done using the constant comparison process, this meant that sufficiency was achieved; codes started to reappear through both the interviews and the documents data. The analysis of the emergent categories in Chapters three and four evidences the depth at which the data uncovered from both the interviews and the documents led to answering the research question successfully.

---

[289] Sargent (n102) 97.
[290] Charmaz 2014 (n124) 114.
[291] Suddaby (n108) 639.
[292] Alemu, Stevens, Ross, Chandler (n263) 536.

Furthermore, the relationships between categories was shown from the overlap of the emergent categories, which essentially meant that within the analysis the process of constant comparison was applied. The documents codes in many instances supported the interviews codes by confirming the analytical interpretations made in Chapter three. Relational statements developed were referenced within the analysis of interviews and documents codes in both Chapters three and four, strengthening assertions and ensuring that there were no new categories emerging, and where new categories emerged more data was analysed, which meant that data gathered were sufficient. The application of the constant comparative process also meant that the categories were strengthened through the analysis process, hence progressed into a theory that was predictive, explanatory and problem solving in nature. It was from this that the model providing an abstract presentation of this research theory was developed, which was subsequently developed into a descriptive/discussion theory. Achieving this meant that the data gathered was sufficient.

ETHICAL CONSIDERATIONS

A challenge in the transformative paradigm assumptions is that associated with establishing an ethical relationship and strategies in research. It is crucial to show that the research complies with applicable ethical standards, as ethical issues arise from the onset, before conducting the study, to the stages of analysing and reporting data, and in some cases publishing the study. Ethical issues arise both in quantitative and qualitative research but are noteworthy in qualitative research because the research often intrudes in participants' lives.[293] It is important to note that all the stages of when ethical issues arise are important, although most researchers are of the opinion that they become important when collecting data because ethical issues particularly arise during data collection with respect to the location and the participants. Ethics in qualitative research are principles put in place to manage researcher's actions; ensuring that their behavior to participants is right, building a trusting relationship.[294] Mertens, whilst arguing about the primary importance of axiological assumptions within this research's transformative framework, points to:

---

[293] Khan (n116) 231.
[294] M Denscombe, *Ground Rules for Social Research: Guidelines for Good Practice* (2nd Edition, Open University Press 2009) 59.

> The need for an explicit connection between the process and outcomes of research and furtherance of a social justice agenda, with focus placed on ensuring the informed consent of participants, participants' right to withdraw and taking into account participants' concerns that no harm will come to them.[295]

Regarding ethical issues faced by social researchers, most learned societies, and relevant professional bodies publish codes of ethics which provides rules, standards or guidelines on what is and is not acceptable when carrying out one's research.[296] My research is in accordance with the Socio-legal Studies Association (SLSA) Code of Ethics and the American Counselling Association (ACA) Code of Ethics and was approved by the University of Buckingham Law School Research Ethics Board.

SUMMARY

The decision to undertake this research thesis, as detailed above, arose from personal interest, experience, and interest to pursue some level of legal protection for the indigenous peoples of the Niger Delta region. The method/methodology choice was, despite professional and personal obstacles, driven by the fact that I understand the value of empirical work not just in academia, but in the world as a whole. I was determined to apply that understanding to this research thesis within the transformative research paradigm. This is because, amongst others, the paradigm's ontology encapsulates the social construction of reality, its epistemology focuses on the role that researchers and participants' relationship play in the research; furthermore, it challenges researchers to change the status quo for the purpose of contributing to a just society.[297] Providing a platform for researchers like me who through direct or indirect societal influences adopt roles as agents to further transformation in marginalized communities such as the indigenous communities in Nigeria's Niger Delta region.

According to Birks and Mills: 'methodological congruence is the foundation of credible

[295] Romm (n74) 415.
[296] V Jupp, *The Sage Dictionary of Social Research Methods* (Sage Publications 2013) 96.
[297] Mertens, Holmes, Harris (n55) 98.

research.'[298] Hence the above detailed analytical/academic justification for the research methodological/method choices. Regardless of the overlaps and different routes taken in the various available methods of grounded theory; as a method in qualitative research, grounded theory has proven very popular and allows for an in-depth look at interactions in particular contexts to see how people define and experience situations.[299] It allows for the data to naturally form theories, presenting researchers with enormous advantages over more rigid approaches to investigating phenomena.[300] According to Charmaz:

> The wide acceptance of versions of grounded theory attest to the usefulness of the method and the current debates about its construction and direction affirm its vibrancy.[301]

Using the constructivist grounded theory method allowed for a non-positivist approach to the issues surrounding the militarisation by the Nigerian government in the Niger Delta region, an approach that is not only interpretive/constructive, but critically inclined. Thus opened the doorway to understanding what the indigenous peoples in the region regard as the reason behind the government's decision to militarise the region. This is something that the original form of grounded theory, if applied, would not have wholly achieved, hence the justification for adopting a flexible and academically justified, according to Charmaz, form of the grounded theory methodology. This research thesis through its application of the constructivist grounded theory method within the transformative paradigm/framework allowed for the analysis of the meanings people/the participants attach to the role that social and legal contexts play in the militarisation of their communities in the Niger Delta region. In so doing the choice of method is an original contribution to knowledge, and so is the choice to use a theoretical explanation for the furtherance of the legal protection of the indigenous peoples living in the Niger Delta region against militarisation, through the proposed actionable-policy recommendations presented in Chapter Five.

---

[298] Birks and Mills (n77) 36.
[299] Grbich (n79) 89.
[300] Birks and Mills (n77) 30-31.
[301] Charmaz 2009 (n104) 475.

CHAPTER THREE

CRITICAL AND CONSTRUCTIVE ANALYSIS OF INTERVIEW CODES; INDIGENOUS PEOPLES' ACCOUNTS AND EXPERIENCES

INTRODUCTION

The purpose of this research thesis, as noted in Chapter one, is to develop a theory explaining the social and legal factors that motivate the Nigerian government' decision to militarise the Niger Delta region. This was in a bid to achieve this research thesis's ultimate objective of proposing actionable-based policy recommendations geared towards the legal protection of the indigenous peoples living in the Niger Delta region. These recommendations, if effected by the Nigerian government, would mean the end of militarisation in the Niger Delta region. Conducting interviews with indigenous elites from different indigenous communities in the Niger Delta region contributed to achieving this research's ultimate objective, as the research's focus was to ensure that the theory developed was based primarily on indigenous experiences and accounts. In so doing, the interview data uncovered general information, indigenous accounts and insights, and deeper trends into the motivation behind the Nigerian government's decision to militarise the region.

The interviews data gathered were analysed using Charmaz's constructivist grounded theory method. This was done within the premise of the decision to incorporate characteristics from Strauss and Corbin's grounded theory method, all of which have been characterized, explained and justified in detail in Chapter Two. Initial coding was individually carried out for each interview data; the initial codes from interview data were then coded together in the axial coding stage, which produced the axial coding chart provided in Appendix A, titled Interviews Axial Codes. Relational statements were then created from the data analysed in the axial coding chart (Appendix A). Important to note is that the relational statements presented in this Chapter are not representative of a single interview, but are representations of all six interviews conducted. This Chapter presents the relational statements that have been developed. This is followed by an analysis of the relational statements with direct reference to the uncovered actions and inactions that have motivated militarisation, with their consequences.

This chapter's codes, from the data analysis and relational statements, revealed underlying issues with the government and indigenous people's actions, the law and the application or lack thereof of legal instruments in the Niger Delta region, that according to the participants, have motivated the government's decision to militarise the region. In some cases, these issues were reported to have been overlooked by the government, whilst in most cases, they were reported to have been wholly orchestrated by the government in their progress towards the national economic growth. All of these factors, classed as emergent categories, overlapped and were revealed to directly influence one another in their contributions towards motivating the act of militarisation in the Niger Delta region. The interviews emergent categories were narrowed to three areas, following the application of the constant comparative process as suggested by Charmaz.

Within these narrowed emergent categories however, there emerged a constant category/factor which prompted these issues, one that I as a researcher did not anticipate would reappear. One must be reminded here that the uncovering of deeper trends within factors is one of the most appealing characteristics of grounded theory. Hence this research thesis provides an analytical discussion of this factor, which is 'violent conflicts' below. After the analysis of this factor, three emergent categories/factors that identify legal motivations for militarisation in the Niger Delta region are analysed. These emergent categories are;

- Nigerian laws, the legal system and militarisation.
- Militarisation, as a contrivance to the violations of human rights in the Niger Delta region.
- Repudiation of indigenous rights in the Niger Delta.

A discussion of the relational statements is presented below. Then all of the factors listed above are analysed in detail, with direct references made to the relational statements developed from the interview codes. It is from these analyses and discussions of the codes that an explanation of the social and legal motivations behind the government's decision to militarise the Niger Delta region is presented – as sanctioned within a transformative/constructivist framework that sees theory developed from participants' accounts and experiences, and the researcher's interpretation of those accounts and experiences. This chapter essentially provides a guide to the presentation of the grounded theory developed later in Chapter five. Below is a summary

of all relational statements developed from the combination of all six elite interviews conducted;

Relational Statement One

The provision of the 13% derivation was initially, both in the 1960 and 1963 Constitutions, listed as 50%, but upon the change of government, and the need to develop other non-oil producing States and boost the economy, the percentages (monies) were reduced to the detriment of those in the indigenous regions. A deliberate action by the government has been to crystalize the payment of the 13% derivation fund within the 1999 Constitution. These peoples continue to feel cheated by these actions, leading to more agitation in the region, which the government has claimed requires military presence to curtail. Solid legal foundations that have sanctioned the discrimination of these indigenous peoples, leading to violent conflicts that supposedly require military acts of force to contain the peoples.

Relational Statement Two

Expropriation laws such as the Petroleum Act, Land Use Act and even the 1999 Constitution have seen the peoples' resources being exploited without their consent or consultation, with ownership of resources in Nigeria being 100% vested in the federal government. The laws are drafted in such a way that those in power are the benefactors of the resources, rather than the indigenous peoples who live on the lands where these resources are found. With these actions, and the fact that the environment where the peoples live has been debased, the peoples are left unprotected, hence the need for them to find remedies to their situation. These remedies have been in the form of militancy (intellectual or otherwise) and constructive engagement, all of which have been met with military action from the government, which is adamant in defending its choice to militarise the region.

Relational Statement Three

Oil companies in the Niger Delta region who have been granted exploitation and exploration rights to the resources found on indigenous lands by the federal government, find it cheaper to violate the indigenous peoples' rights by carrying out environmental blunders that would be

unacceptable in properly structured States with laws that are actually implemented. These acts by the oil companies have resulted in more agitation and armed violent conflicts, which have in turn been met with more violence from the Military in Nigeria. This has led to the permanent presence of the military in the Niger Delta region, which some companies argue has led to them relocating from the region, thereby increasing unemployment and poverty, leading to more agitation in the region.

Relational Statement Four

Claims of environmental agencies such as NOSDRA (National Oil Spill Detection and Response Agency) being corrupt, have resulted in more conflict, as the indigenous communities are known to have rejected these relationships that they believe are manipulated by power dynamics. When indigenous communities resist the corrupt relationships, they appear to have shunned and bypassed agencies that were supposedly created for the benefits of all in the Niger Delta region, and are then dubbed as militants that need to be placed under surveillance by not only the Nigerian government, but all acting parties in the exploitation and exploration of resources in the region, leading to the dispatch of military officials to the region.

Relational Statement Five

The entire Niger Delta (a combination of nine States) is represented by just 55 members in the House of Representatives which is made up of 360 members, whilst Kano, which is just one State, is represented by 24 members, hence leaving room for discrimination and oppression. Where, for example, Acts such as the Land Use Act 1978 are proposed to be repealed by those from the Niger Delta region, Kano State alone has the power to oppose this decision. What this means is that in terms of the struggle of indigenous peoples in the Niger Delta region for some control of resources found on their lands, they lose the bid even before proceeding. This has left the people feeling oppressed, abused and violated, leading to acts of protest, both violent and peaceful, all of which the Nigerian government has again met by using the military against the people.

Relational Statement Six

The judicial process is clouded with technical procedures put in place by the government, technicalities which see litigants giving up even before they start the proceedings. These procedures are orchestrated primarily to ensure that the indigenous peoples of the Niger Delta region remain voiceless in their struggle for justice. Indigenous peoples who are then unable to access social justice resort to street justice. Shutting the peoples out and emasculating them drives them to resort to acting through any means that would ensure their voices were heard in whatever way.

Relational Statement Seven

Where there has been little evidence both of government's and the oil companies' decision to compensate or develop the indigenous communities, community leaders themselves have been accused of the misappropriation of funds for personal benefits. Creating more division amongst the peoples, and fuelling agitation and violent conflicts between community members, in turn provides the government with the room to intervene by the deployment of military officials to supposedly maintain the peace in these areas.

Relational Statement Eight

Easy uninterrupted access to petroleum resources brings about easy wealth. The nation as a whole depends on these resources, so once petroleum is threatened not only is the government threatened, but the cabal, corrupt leaders, and oil companies' sources of income are threatened. This has meant the continuous validation of military presence in the region which has brought about unrest in the communities, dashing the hopes of the furtherance of development in the Niger Delta region.

Relational Statement Nine

Under the guise of tracking down militants, who the government claim are serious threats to their own communities, military officials have been provided with the authority to carry out human rights violations, ranging from acts of displacement to more serious acts of genocide. These inhumane acts carried out by the military have evidently spanned over decades. The

peoples' cry for justice has remained unanswered leading to more agitation because of the government being unwilling to protect the people from the military.

DISCUSSION OF RELATIONAL STATEMENTS

As mentioned above, the relational statements were created from the interviews axial codes presented in the chart format in Appendix A. All relational statements created were from the data gathered from all six interviews conducted. No single relational statement represents a single interview; they represent all interviews following the process of analysis using Charmaz's constructivist grounded theory method, incorporating Strauss and Corbin's Axial coding characteristics, as detailed and justified in Chapter two. The results of the interview codes detailed and analysed below are vital to the presentation of this research's theory which explains the social and legal motivation behind militarisation by the Nigerian government in the Niger Delta region, as presented in Chapter five. These results, in combination with the documents analysis in Chapter four which also assisted in the development of the theory, led to the presentation of the actionable-based policy recommendations geared towards the legal protection of the region's indigenous peoples against militarisation, also presented in Chapter five.

The relational statements presented from the analysis of the interviews data, and the presentation of the axial coding chart in Appendix A, manifest the deep-rooted legal struggles of the indigenous peoples living in the Niger Delta region, including the conditions they currently find themselves in, the role the law has played thus far in their rather unfortunate journey, etc. Factors that influenced the government's decision to militarise the region, in the views of indigenous peoples, were uncovered. The findings revealed unexpected issues and insights which I was unaware were at the forefront of indigenous peoples' struggles. In summary, this chapter's findings and observations revealed that violent conflict in the Niger Delta region which has resulted in the militarisation of the region has been written into the region's history. Military officials' permanent presence in the region, as authorized by the government, has spanned decades. Their presence in the region is evidence of a clear case of illegal and unjust acts of discrimination and oppression being carried out against the indigenous peoples of the region. The military, as ordered by the Nigerian government, have an established presence in the region that has shown they are not even accountable for their actions, from

cases of torture to murder, all in the name of containing the communal 'violent conflicts' in the region.

There are currently no laws geared towards the protection of the indigenous peoples living in the Niger Delta region, and other human rights laws provided for the general order of society by the government have been blatantly ignored by those in power when dealing with these peoples. For example, the Inspector General of the police in September 2016, warned the Special Anti-Robbery Squad (SARS) against committing torture, which all of the military bodies in Nigeria have continually done, encouraging them to follow due process of law.[1]. These acts of torture have been done in a country that is supposedly practicing democracy. The country's democratic status should mean the powers of the State, and consequently the military, at the very least, are constrained by the Constitution. This is not so in Nigeria, not only in the Niger Delta region, but across the country, although the focus of this research is on the communities in the former. It becomes apparent from the interview codes that in order to achieve this research's ultimate aim of creating actionable-based policy recommendations, there needs to be an in-depth analysis of the problem areas as identified by the interview participants. Hence satisfying the transformative/constructivist characteristic that promotes forging theory from the participants' views, which was in no way constricted, and my interpretation as the researcher.

Corresponding to the above relational statements, below are analytical presentations of the listed emergent categories derived from the data. The purpose of these is to show how this research thesis succeeded in achieving its objective, which from the exploration of indigenous experiences proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation. Providing a step-by-step process on how the theory was developed allows this research thesis to be replicable, in that others are taken clearly through the way the research data were obtained, analysed and presented. According to Quigley:

> In line with this choice towards the transformative framework, researchers interested in participating in the transformation of the world, through any

[1] Amnesty International, 'The State of the World's Human Rights' 2016/17, 279 https://www.amnesty.org/en/latest/research/2017/02/amnesty-international-annual-report-201617/ accessed 2 October 2017.

contribution, are encouraged not to rely on a simplistic overemphasis of the role of the law, they are required to learn the truth through methodological research.[2]

These emergent categories are my interpretations, as the researcher, of participants' views, which are vital in transformative framework research. Relying on participants' views to build the theory satisfies Charmaz's assertions of the importance of creating knowledge together with research participants.[3] All the factors that have motivated militarisation in Nigeria's Niger Delta region, as uncovered from the interview codes, appeared to overlap. In spite of this, this research thesis in a bid to provide some level of structure which I believe is vital in underlying problem areas, discusses separately emergent categories issues that have according to the interview participants motivated this research's phenomenon, 'militarisation'. This was enabled by the application of the constant comparison process of the grounded theory method championed in the application of Charmaz's constructivist grounded theory, as detailed in Chapter two. In each titled emergent category discussed, the relational statements developed from the interview codes confirming academic and societal proclamations are pointed out. It was important to bring in academic and societal proclamations to ensure that assertions are academically sound, and provide readers with evidence that facts from interviews were not in any way fantasied.

First however, as noted above, is the presentation of the analysis of the constant emergent category 'violent conflict'. This is essential to the presentation of this Chapter and the research thesis as a whole. This is because in all other emergent categories of the social and legal motivation for the Nigerian government's decision to militarise the Niger Delta region, both from the interview and document codes, violent conflicts were a resulting action from both the Nigerian government and the indigenous peoples. As with other emergent categories, this category is analysed in line with the relational statements presented above.

[2] W P Quigley, 'Letter to a Law Student Interested in Social Justice' (2007) 1(1) DePaul Journal for Social Justice 7, 20.
[3] M Redman-MacLaren and J Mills, 'Transformational Grounded Theory: Theory, Voice and Action' (2015) 14(3) International Journal of Qualitative Methods 1, 6.

VIOLENT CONFLICTS IN THE FACE OF MILITARISATION

As noted in Chapter one, resource-based issues, insurgency, violent conflicts and threats of secession (self-determination) are constantly mentioned by the Nigerian government when questioned about their decision to militarise the Niger Delta region. In all of these rather serious issues, the issue of violent conflict was constantly addressed by participants in this research thesis's interviews. The interview codes revealed the three legally motivated emergent theories listed above, but first a vital revelation without which this research's findings could not progress, is analysed. This is the nature of violent conflicts in the Niger Delta region which has motivated militarisation by the Nigerian government.

Africa, since the 1970s, have become known as a continent that is prone to having long-lasting conflicts.[4] According to Udofia:

> Nigeria as a country is no stranger to violent conflicts; these have been as a result of the government's action or inaction, with evidence from the 1967-1970 civil war which claimed the lives of over two million Nigerians, rendering some internally displaced and others claiming refugee status in neighbouring countries,[5] amongst others. The civil dispensation from 1999 to 2017 (current) witnessed violent conflicts in new dimensions, from insurgent activities in the northeast, to pockets of clashes between herdsmen and farmers in the middle-belt and the south, to agitation by some groups in the southeast for self-determination, to restiveness in the Niger Delta region.[6]

The importance of the analysis and discussion surrounding violent conflict's role in the act of militarisation is directly linked to the transformative framework viewpoint of this research which applauds the interpretation of indigenous voices in the midst of oppression, discrimination and the violation of peoples' human rights – acts which should be confidently classed as illegal in the eyes of the law and society. One is forced to ask, why are they admissible in government's dealings with the indigenous peoples of the Niger Delta Region? (see Relational Statements Two, Three, Seven and Nine). Are these peoples' history and current situation a direct contrivance of the mistreatments that they have continually, with

[4] F Allen, *Implementation of Oil Related Environmental Policies in Nigeria* (Cambridge Scholars Publishing 2012) 39.
[5] D Udofia, 'Good Governance, Violent Conflicts and National Security in Nigeria' (2016) 3(1) Peace and Environment Africa Journal 312, 313.
[6] Ibid.

strong evidence expressed in this research's findings, been subjected to? (see Relational Statements One and Five).

It is a commonly held view that causes of violent conflicts vary, ranging from lack of respect for human rights, degradation of the environment, deprivation, marginalization, loss of land, inequality, positions by ruling elites and resource control, amongst others. Despite the justifiable distaste that arises with the evidence of conflict in any society, conflict is inevitable as there will always be different views and values which in turn may lead to domination and oppression. This however does not mean that conflict should not be avoided or at the very least exhibited in a way that would cause minimal violation to people's basic human rights. Violent conflicts in the Niger Delta are centred around indigenous peoples' struggle for control over the resources found on their lands and grievances amassed from environmental degradation, both of which have resulted in oppression, marginalization, repression and a high record of human rights violations in the Niger Delta region.

Following this research interviews' codes, a valid point of view, as expressed by the participants and accepted following examination of the findings is, according to Nkoro:

> Conflict is essentially propelled by unfulfilled needs of the people, be it in terms of sense of justice, rights of individuals, and so on, all of which are often provoked by official neglect, persecution, denial of human rights and insensitivity of some leaders.[7]

In light of the above statement, particular reference is made to Relational Statements One, Two, Six and Seven. Necessary to note here is that petroleum resources are key elements in the explanation and analysis of conflict in the Niger Delta region,[8] and resource control has generated a wealth of controversy and conflict in Nigeria. This is highlighted on in Chapter one, in the analysis and review of theoretical frameworks that following the development of the theory have influenced the research thesis.

---

[7] E Nkoro, 'Conflict in the Niger Delta: The Way Forward' (2008) 3(16) Environmental and Planning Law Review 163, 163.
[8] Allen (n4) 48.

A common view from the interview participants revealed that conflicting claims of ownership of the oil resource by the Nigerian government and the indigenous peoples have uncontestably resulted in the violent conflict that has engulfed the region, and in turn resulted in the militarisation of the region. As correctly pointed out by Allen: 'it is however difficult to properly analyse violent conflict in the Niger Delta by reducing the violent conflict to a mere struggle for the oil resource.'[9] Violent conflict in the Niger Delta region is much more than a clamour for its oil resources, as evidenced from the interview codes, although, as noted above, this undeniably plays a vital role in the violent conflicts that have dominated the region since its discovery in 1958. For example, the legislation in Nigeria is geared towards investing ownership in the government and expropriation in favour of the government. Examples of such laws are the Land Use Act 1978 and the 1999 Constitution of the Federal Republic of Nigeria, amongst others. Odje states: 'resource control is a political agitation, which is not amenable to judicial resolution or adjudication. It is the exercise of our right to freedom of speech and self-determination.'[10] The struggle over control of resources in the Niger Delta region have only succeeded in making permanent the violent conflicts between the indigenous peoples and the Nigerian government, and surprisingly between the peoples themselves. Ojefia notes:

> Resource control has been found to be rooted in the desire to promote fiscal federalism as the most efficient means of freeing Nigerians from the hangover of military authoritarianism and misrule.[11]

Interview codes from the participants' views revealed strains in the region as a result of environmental degradation; which have in turn led to violent conflicts being used as a tool by the indigenous peoples to voice their disdain, and a tool by the Nigerian government to ensure that the peoples' concerns remain unheard (see Relational Statement Three). The Niger Delta region is one region in the world that has suffered the worst environmental degradation as a result of over five decades of petroleum exploitation activities by multinational oil companies such as Shell, Chevron, Exxon-Mobil and others.[12] The degradation in the environment has evidenced years of neglect and poverty ravaging the peoples living in the region, which has in

[9] Allen (n4) 49.
[10] A M Odje, *Lectures on Niger Delta, Human Rights and the 1999 Constitution* (Crown of Splendour 2016) 20.
[11] I A Ojefia, 'The Nigerian State and the Niger Delta Question' (2008) 3(16) Environmental and Planning Law Review 1, 20.
[12] See generally Allen (n4).

turn led to violent conflict. Hence, the relatively new concept of 'environmentally induced conflict' as proposed by Akporowho; which states:

> Diminishing resources or environmental degradation contributes to violent conflict, as expressed by people living in environmentally degraded areas, perceiving such degradation as a threat to their survival and livelihood.[13]

This research's theory although support this submission of the concept of 'environmentally induced conflict' acknowledges that the submissions of this concepts cannot be included in detail in this research thesis because they are too broad. Hence would not fit within this research's overall submissions. It is however important to draw reference to the seriousness of environmental degradation in the Niger Delta region and how it has incited violent conflicts in the region; claims made by the participants were supported by these facts. According to Bisina and Bisina:

> Operations of the multinationals in the Niger Delta region are characterized with a maze of hazards with over 2,696 oil spill incidents between 1976 and 1980 and between 1976-1996, and Shell alone accounting for 4,835 oil spill incidents, while the nation's gas flares to emissions approximates about 16%.[14]

It is however important to note that despite the alarming numbers of recorded oil spills, the majority of oil spills go unreported. Bisina and Bisina stressed:

> There could probably be no better explanation for the environmental violence in the Niger Delta region of Nigeria other than a corresponding response to the damning environmental degradation occasioned by oil exploration cum exploitative activities, massive oil spills and indiscriminate gas flaring by multinational oil corporations. The violence is further heightened by the excessive use of force by public and private security operatives hired by the oil companies and members of the Joint Military Task Force (JTF), which includes the army, navy and air force, to deal with issues of pipeline vandalism, oil theft and militancy and sometimes legitimate agitations in the form of peaceful protests.[15]

---

[13] P Akporowho, 'Environmental Protection: A Critical Ingredient for Peace Building in Nigeria' (2016) 3(1) Peace and Environment Africa Journal 275, 277-288.

[14] A Bisina and J D Bisina, 'Rights-Based Approach to Resolving Environmental Conflicts: An Evaluation of the Implementation of the United Nations (UN) Guiding Principles and Voluntary Principles on Security and Human Rights in Africa' (2016) 3(1) Peace and Environment Africa Journal 71, 75.

[15] Bisina and Bisina (n14) 77.

It is in the presence of these underlying issues, such as environmental degradation and weak or no laws to protect indigenous communities against these environmental blunders caused by the exploitation of resources found on indigenous lands, that the Nigerian government, according to the participants, is seen to shield their failures with brutal force from their military officials, hence 'militarisation'. Abidde opined:

> From 2003 until 2009 the Niger Delta was perhaps the most dangerous place within the West African sub-region.[16] There has been evidence of increased military presence in the Niger Delta region since 1999; however the issues of security related problems in the region only became a matter of public concern from 2003-2005. Prior to these years, issues in the Niger Delta and the Niger Delta region as a whole was simply an afterthought.[17]

It is however important to note that agitations and violent conflicts in the Niger Delta region did not start in 1999, they date as far back as 1938, with the activities of Major Isaac Adaka Boro (hereinafter Isaac Boro) whose dissatisfaction with the economic and social conditions in the Niger Delta region compelled him to lead the Niger Delta Volunteer Force (NDVF).[18] In 1966 the government was shaken by a band of militants led by Isaac Boro who championed a 12-day revolt and in the process declared independence for the Niger Delta Republic.[19] On October 30th and 31st 1990, in a protest that took place at Shell's facility at Umuechen, the police were reported to have killed some eighty (80) unarmed demonstrators, and destroyed 495 houses.[20] According to the Human Rights Watch:

> Virtually every oil producing community has experienced an incident along the following lines. Community members stage a protest demanding compensation for oil company activities… In response to the protests, members of the Mobile Police or other security forces come to the scene, the security forces carry out indiscriminate beatings, killings, arrest and detentions; the protest is then abandoned…[21]

---

[16] S O Abidde, *Nigeria's Niger Delta: Militancy, Amnesty, and the Postamnesty Environment* (Lexington Books 2017) 23.
[17] Ibid.
[18] Abidde (n16) 20-21.
[19] Abidde (n16) 69.
[20] Human Rights Watch, 'The Price of Oil: Corporate Responsibility and Human Rights Violation in Nigeria's Oil Producing Communities' (1999, Human Rights Watch, Washington DC, ISBN: 1-56432-225-4, 112).
[21] Ibid. 123.

These military presences, as uncovered from the interview codes (Relational Statement Nine), have become the key prompters of violent conflicts, and vice versa. Following the above assertion, the Joint Task Force (JTF) that has reportedly been mandated to protect petroleum installations from armed groups and disgruntled citizens, has been involved in gross human rights violations, extrajudicial executions, torture, and other forms of ill-treatment, destruction of homes, rape, bribery and corruption, which are mainly linked to the extractive industry.[22] Sufferers from the violent conflict in the Niger Delta regions are civilians; according to Amnesty International:

> Rape of women and girls by both the police and security forces, and within their homes and community is an endemic in Nigeria. It persists because the State has failed to… address the entrenched culture of impunity for human rights violations committed by the police and security forces.[23]

Participants' accounts from the interviews, and confirmation from documents evidenced that in February 2005 the JTF, under orders from the Nigerian government, launched a raid on Odioma, a community in the Niger Delta with the alleged aim of mediating and bringing to a halt communal conflict and also apprehending a local militia for the killing of 12 people.[24] Over a period of four days, the JTF razed 80% of the homes in the community, using gun boats and machine guns, killing 17 people, amongst whom was a 105 year old woman and a 2 year old child, with Amnesty International reporting the rape of at least two women by the soldiers.[25] Air strikes carried out by the JTF in February 2006 in the communities of Perezouweikoregbene, Seitorububo, Seingbene and Olapogbene, led to the killings of at least 31 people, and burning of homes and properties.[26] The above observations show military involvement in inciting the violent conflicts in the region, which they have continually claimed are the reason their permanent presence is required in the Niger Delta region. Their acts are a

---

[22] Bisina and Bisina (n14) 77.
[23] Amnesty International, 'Nigeria: Rape – The Silent Weapon' (28 November 2016) https://www.amnesty.org/en/documents/AFR44/020/2006/en/ accessed September 17 2017.
[24] L Polgreen, 'Blood Flows with Oil in Poor Nigerian Villages' *The New York Times* (New York, 1st January 2006).
[25] B Amunwa and M Minio, 'Counting the Cost Corporations and Human Rights Abuses in the Niger Delta' (Platform, October 2011) http://platformlondon.org/nigeria/Counting_the_Cost.pdf?utm_medium=email&utm_campaign=Nigeria+report&utm_content=Nigeria+report+CID_6addf4ad4ab7379a0625f65cb36b120e&utm_source=campaign+monitor&utm_term=new+report accessed 14 February 2017 .
[26] Abidde (n16) 74.

violation of the indigenous peoples living in the Niger Delta region's human rights and consequently globally recognized indigenous rights.

Participants gave detailed accounts of actions and inactions that they personally witnessed, which have in the past consequently led to violent conflicts with the Nigerian military, even in cases where the indigenous peoples of the Niger Delta region had conducted peaceful protests to demand peace in the region. One of such accounts was when the Movement for the Survival of the Ogoni People (MOSOP) in January 1993, on the occasion of the UN's International Year of the World's Indigenous Peoples, held a mass rally, which later saw their controversial decision to boycott the June elections. This demonstration of organized political opposition resulted in a military crackdown in Ogoni, intensifying the repression of MOSOP activities in the region.[27] The Nigerian military, whenever the government is opposed to indigenous activities which calls out oppression, marginalization and discrimination in their communities, is used as a weapon to ensure that the indigenous peoples are kept mute. The Nigerian government, concerned for their international image (as discussed in Chapter Four, under the third factor), and determined to not let indigenous concerns stall national economic growth and corrupt profits made from resources, sanctions the illegal actions of its military officials against the indigenous peoples of the Niger Delta region through the act of militarisation.

The Human Rights Watch, in 1995, documented evidence of harassments, detentions, and the extrajudicial execution of the members of the Movement of the Survival of the Ogoni Peoples (MOSOP) by the Nigerian military security forces.[28] All of these events that led to the execution of the 'Ogoni Nine' environmental and human rights activist by the military government in Nigeria on November 10th 1995,[29] gained the attention of the international committee, the message was spread worldwide. Following this act the Commonwealth of Nations suspended Nigeria's membership, the United States and United Kingdom went on to recall their ambassadors, and South Africa campaigned for sanctions against the Nigerian government.[30] The world agreed that the trial and execution of the 'Ogoni Nine' was a travesty

[27] Human Rights Watch (n20) 113.
[28] Human Rights Watch (n20) 114.
[29] P D Okonmah, 'The 'Judicial' Murder of Nine Environmental and Human Rights Activists in Nigeria and the Implications for the Enjoyment of Human Rights in Nigeria' (1999) 7 Tilburg Foreign Law Review 393, 394.
[30] C R Ezetah, 'International Law of Self-Determination and the Ogoni Question: Mirroring Africa's Post-Colonial Dilemma' (1997) 19 Loy. L.A. Int'l and Comp. L.J. 811, 821-822.

of justice; sadly, this travesty of justice did not stop them as evidenced by the militarization of the indigenous peoples in the Niger Delta region to date. The government, as in the case of the killings and destruction of Ogoni villages does not deny their actions, but continually attributes their actions to containing inter-communal violent conflicts. According to Okonmah:

> The opprobrium which the killing of the 'Ogoni nine' attracted from the international community is evidence that sovereignty is no longer an absolute concept in international law, and although the military authorities (then) can rule in absolute terms in Nigeria they must have regard to Treaties voluntarily entered into by the Nigerian State and abide by the minimum standards of civilized behaviour.[31]

It was following the killing of the Ogoni Nine that the Nigerian government became aware that conflicts in the Niger Delta region have gained global salience, hence the need for the issues to be tackled and rectified. However, the sad evidence, as shown in this research's phenomenon and the interview codes, indicates that this has not been the case to date. There remains evidence of ongoing violent conflict in the region between the indigenous peoples living in the region and the Nigerian military officials, which has led to many of the indigenous peoples being labelled as militants, and has intensified the military presence in the region (see relational statement nine). These militants, according to Ojefia: 'are no more than overwhelmed youths who have forcibly taken over as a new social force in the Niger Delta struggle.'[32] Abidde rightly noted:

> As the Niger Delta conflict intensified, all major actors spoke and acted with their fingers on the international community's pulse with the intention of swaying global opinion. The government sometimes acted as though its laws fit well with international best practices and norms, and acts as though its aggression toward, and persecution of justice-seeking groups and the militias, falls within the tenets of the global fight against terrorism, hence justification for painting all the groups in the Niger Delta as terrorists.[33]

In line with this, interview codes revealed the grave extent of government intimidation and blackmail of the indigenous peoples and others soliciting or the peoples in the Niger Delta region. An overwhelming example of the magnitude of government intimidation and use of blackmail is noted by Ojefia in the case of the former Governor of Delta State, Chief James O

[31] Okonmah (n29) 427.
[32] Ojefia (n11) 18.
[33] Abidde (n16) 25.

Ibori. According to Ojefia, Ibori's choice to spearhead agitations for resource control during his tenure resulted in attempts by the government to intimidate him, almost two years into his assumption of office for a second term, legal cases were filed at various courts against him.[34] Indigenes of Akwa Ibom and Cross River States described the trial as: 'an attempt to rubbish the Niger Delta cause for resource control by blackmailing the region's leading light.'[35] Another example of intimidation and blackmail by the government is seen in the case of the arrest of former governor of Bayelsa State, Diepreye Alamiesiegha, who has been at the forefront of the campaign calling for oil-producing regions to receive a greater share of revenues. He was arrested under money laundering charges at Heathrow airport, when returning from Germany, by London Metropolitan Police acting on information supplied by Nigeria's anti-corruption economic and financial crimes commission (EFCC).[36] What the above observations in relation to violent conflict has meant for the indigenous peoples living in the Niger Delta region, according to Ojefia is:

> The Niger Delta has been the production of weak societies that are characterized by high degrees of fragmentation, low levels of social solidarity and a great deal of anomic behaviour and unrest in the region.[37]

In accepting the above assertions, this research notes that government intimidation and blackmail of the peoples, and use of force through military officials, all tied to issues with resources found on indigenous lands and their complementary indifference to the problems in the region, coupled with repression of the indigenous peoples' struggles, and international isolation, have succeeded in deepening the peoples' frustration. Frustration that have incited conflicts that have graduated over the years to being violent. From initial peaceful protests to more violent conflicts that have resulted in deaths. The lives of the peoples in these communities are under serious threats, hence they are frustrated by the replay of ignorance in relation to their struggles and demands. Frustration, however, is not excused as a defence for violence. There are other methods to tackle such intimidation and discrimination; 'intellectual militancy' is one of such methods.

---

[34] Ojefia (n11) 24.
[35] Ojefia (n11) 24.
[36] O Owen, 'The Contested Rights of the Niger Delta' (2008) 3(16) Environmental and Planning Law Review 63, 66.
[37] I O Ojefia, 'The Nigerian State and he Niger Delta Question' 2004 A Paper for the 22nd Annual Conference of the Association of Third World Studies, America, Georgia, USA http://nigeriaworld.com/articles/2004/sep/071.html accessed 17 September 2017.

Referring to the evidence of inter-communal violence between the indigenous peoples living in the Niger Delta communities what is gathered is that the poison of power, corruption and resources have managed to overshadow legitimate claims. The indigenous peoples themselves have within them corrupt leaders and criminalised groups whose interests are not genuine. Ensuring that the indigenous communities are safe then becomes a scheme with no trustworthy opponent. Peoples fighting within themselves over community projects and allocations of resource funds. The Nigerian government's decision to militarise the Niger Delta region following this would appear legitimate to all. There are however deeper trends to this turn out of events as evidenced in this the interview codes which revealed the Nigerian government as orchestrators in all events leading to violent conflicts that have in turn resulted in the militarisation of the Niger Delta region.

Moving on from the above observation and analysis of violent conflicts in the face of militarisation, interview codes revealed the workings or lack thereof of laws, their structure and legal instruments in Nigeria, hence the emergent categories. This is core to this empirical legal research thesis which, through its transformative paradigm with the application of the constructivist grounded theory method, bridges the gap between the actual effect of law in society. Looking at the overall effectiveness of laws in the indigenous communities in the region, and the extent to which they have protected or failed to protect its peoples with regards to militarisation. This assisted in answering the research question. In so doing I, as the researcher, with particular reference to indigenous accounts and experiences as obtained from the interview codes, narrowed and interpreted issues with the laws, structure and legal instruments to three topical areas as identified by the participants. The decision to do this is justified by the flexible nature of the grounded theory method as noted in Chapter Two. These emergent categories, following my interpretation as the researcher, are;

- Nigerian laws, the legal system and militarisation,
- Militarisation as a contrivance of the violation of human rights in the Niger Delta region, and
- Repudiation of indigenous rights in the Niger Delta region.

FIRST FACTOR:

NIGERIAN LAWS, THE LEGAL SYSTEM AND MILITARISATION

Interview codes, from participants' accounts, evidenced that the laws of Nigeria have not only failed the people in regard to curtailing militarisation, but have emerged to be the driving force behind the excuse made by the government for deploying the military to the region. An example of this is seen in the fact that: 'the National Assembly is yet to pass into law the anti-torture bill which seeks to further prohibit and criminalize torture.'[38] This is in spite of records of military actions that have resulted to deaths in the Niger Delta indigenous communities as highlighted in Chapter One. By words and actions, communities in the Niger Delta region currently refuse to accept the legitimacy of the Nigerian laws and policies that have resulted in their being discriminated on, marginalized and oppressed by not just the Nigerian military, but by the country as a whole.[39] The issues in the region have progressed from a situation of oppression, to one that sees the indigenous peoples of the region being genuinely concerned for their existence as a whole. According to Emeseh:

> It is essential to the nature of law that it is intended for the common good of the community… an unjust law is no law, it has no binding force and should not be obeyed.' The law ought to play a role in the promotion of social order and transformative justice in the Niger Delta region.[40]

The militarisation of the region is a tool to enable the Nigerian government ignore the peoples' rights. Why do they, who have created these laws and are meant to uphold the law allowed to do this? Does the fact that the government create the laws make the laws inapplicable to them, and the government unaccountable for their actions in situations where they have evidently broken such laws and paid no regard to peoples' basic human rights at the very least? The transformative framework behind this research thesis prompts researchers to be openly critical of the law and justice. The situation of militarisation in the Niger Delta region, and acts that have followed shows that in Nigeria law and justice do not go together. An example provided by Quigley on the difference between law and justice is the unjust distribution of economic

---

[38] Amnesty International (n1).
[39] D Otobo, 'Oil Wells, Niger Delta and all that…' *The Guardian* (Nigeria, 19 January 2017).
[40] E Emeseh, 'The Niger Delta Crisis and the Question of Access to Justice' in C Obi and S Rustad (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro-violence* (Zed books 2011) 55, 55.

wealth and social and political power, which is mostly legally supported but in reality is the most unjust.[41] The situation in the Niger Delta region fits this bill. The Nigerian government create and amend laws to fit their actions, ensuring that they are never on the offensive side of the laws, and where they are, they blatantly ignore the systems in place. The power structure of the government is such that ensures that all bodies created to protect its citizens are answerable to the governments' needs, whether legal or illegal.

Interview codes indicated several core legal issues that drive militarisation, which were too robust to ignore. These issues thus far have not been, whether intentionally and unintentionally, paid adequate attention when discussing struggles of the indigenous peoples in the Niger Delta, particularly in respect to militarisation. These issues formed the cornerstone of this research thesis, hence they are analysed in this Chapter, underlining the legal failures as expressed by the participants' views, and interpreted by myself as the researcher. These legal issues have in turn led to the continuous, violent conflicts and the established military presence in the region, hence militarisation. The militarisation of the region is the result of the blatant disregard of these legal issues by the Nigerian government, hence the need to discuss in detail their importance to the people of the region, whilst evidencing the acts that guided this research's phenomenon and thus led to the development of the theory and proposed actionable-policy recommendations in Chapter five.

Interview codes revealed that some laws in Nigeria, coupled with the unreliable attempts by the government towards solving the problems in the Niger Delta region, have failed the indigenous peoples in the Niger Delta region. These laws have had, and are continually having, serious effects on the land rights of the Niger Delta people in relation to oil exploitation on the one hand, and on the other hand that have seen them being oppressed, marginalized and discriminated against, amongst others. Hence prompted militarisation in the region. For weak countries, such as Nigeria, characterized by corruption, autocracy or fledgling democracy with ineffective State institutions,[42] what the resource curse has meant is that the indigenous communities have been swamped by negative impacts, that have even seen the laws of the

[41] Quigley (n2) 16.
[42] M L Norman, 'The Challenges of State Building in Resource Rich Nations' (2012) 10(3) Northwestern Journal of International Human Rights 173, 176.

country actually working against them. From the uncertainties surrounding the 13% derivation rights to the appropriation and dominating provisions under the 1999 Constitution of Nigeria, the Land Use Act and the Petroleum Act, trends of discrimination against the indigenous peoples committed by the government in the region are evident (see Relational Statements One, Two and Five).

Such laws that deprive the indigenous peoples of their resources are deemed undemocratic (do not follow the tenets of democracy), by not following the rule of law, leading to the peoples' questions regarding the legitimacy of such laws/decision. The sad truth, however, is that the rights considered fundamental in places such as the United Kingdom and the United States of America, and in most of the international community, are not being protected in Nigeria for the people of the Niger Delta.[43] For example, according to Amnesty International, in Nigeria:

> Since January, in response to the continued agitation by pro-Biafra campaigners, security forces arbitrarily arrested and killed at least 100 members and supporters of the group Indigenous People of Biafra (IPOB). Some of those arrested were subjected to enforced disappearance.[44]

The above statement, from Amnesty International, if it was in relation to the above listed countries, would no doubt lead to serious political and social unrest, where the governments would publicly be held accountable. This is clearly not the case in Nigeria. Rather than maintain civil order with military and security officials, the Nigerian government is known to always opt for the inhumane, brutal methods of the military in dealing with issues that they suggest threaten national security. Whilst at the end of the day their actions are what have now amounted to threats to national security through the violent conflicts that their actions have instigated in the Niger Delta region, as seen in the case of the Ogoni Nine discussed above. All of these actions are contrary to the provisions of the 1999 Constitution of Nigeria, of which Section 32 provides:

[43] K S A Carew, 'David and Goliath: Giving the Indigenous Peoples of the Niger Delta a Smooth Pebble-Environmental Law, Human Rights, and Re-defining the Value of Life' (2002) 7 Drake Journal of Agricultural Law 493, 494.
[44] Amnesty International (n1).

> Every individual is entitled to respect for the dignity of his person, and accordingly, no person shall be subjected to torture or to inhuman or degrading treatment.[45]

Why then is this not applicable to the indigenous peoples of the Niger Delta region? Or is the Niger Delta region selectively a part of Nigeria, from which, when it is beneficial to the country's economic development, the government has a non-contested right to the resources on indigenous lands, but when its peoples are being oppressed, marginalized and discriminated upon, suddenly they become invincible?

The present system of paying 13% derivation, (see Relational Statement One), to the nine State governments of the Niger Delta appears to be in violation of several mandatory provisions of the 1999 Constitution. Section 162(2) of the Constitution as amended states:

> The 13% derivation fund is payable exclusively to the oil and gas producing communities, primarily as compensation for the loss of fishing rights and productive farmlands arising from oil exploration and exploitation.[46]

This however has not been the case with the people of the region, the moneys generated from the fund is clouded with corruption, the indigenous peoples at the end of the day receive no percentage from the fund. The Niger Delta indigenous communities are still dominated by poverty, under-development and insecurity. Situations in the region are so serious that it has seen the former President of Nigeria Olusegun Obasanjo describing the situation in the region as being:

> Unfair for the south-south (Niger Delta) States, the producers of the nation's wealth, to languish in penury while the resources from their areas are used to develop other parts of the country.[47]

Interview codes further revealed that Nigeria, although a multi-ethnic society is dominated by three major ethnic groups: the Hausa-Fulani of the North, the Yoruba of the West and the Ibos

[45] The 1999 Constitution of the Federal Republic of Nigeria.
[46] Ibid.
[47] K S A Ebeku, 'Oil, Niger Delta and the New Development Initiative: Some Reflections from Socio-Legal Perspective' (2007) 19(1) Sri Lanka Journal of International Law 1, 8-9.

of the East (see Relational Statement Five).[48] Much to the annoyance of non-northerners in Nigeria, leadership in the country for the most part is dominated by northern Muslims.[49] Actions against indigenous peoples in the region have seen a disproportionate order with regard to stakeholders in the resources found on indigenous lands. An example of such disproportionate orders is seen under Nigeria's revenue allocation formula, which since 1999 grants the national government based in Abuja the right to retain 56% of all revenues, leaving only 44% for the sub-national governments made up of 36 States and 774 local governments.[50] From the above the power position of dominant ethnic groups is made evident, so serious is it that it is entrenched successfully into policies and laws of the country. The peoples as a result of these clear discriminatory actions become frustrated, and where they express frustration militarisation is the answer given by the Nigerian government.

Following the above, there are concerns for the fact that revenue gained from resource extraction in the Niger Delta region has come to represent a means of survival for ineffective and repressive regimes.[51] According to Okonmah:

> The political configuration of Nigeria is such that only those with political clout manage to attract development to their areas. Since the people of the indigenous communities in the Niger Delta region belong to minority ethnic groups, without any political leverage they are unable to attract any development to their areas.[52]

Nigeria in essence, even after being under civilian rule for over two decades, remains a rich country of many poor people, with about two thirds of Nigerians still living below the poverty line.[53] Nigeria, as a country, has to halt the ethnic discrimination it exercises for the privilege of political-civil rights over socio-economic rights, which has seen it continually ignoring indigenous peoples' collective rights and in turn the people of Nigeria's individual human rights. The laws of Nigeria assist the government's continuous oppressions of the indigenous peoples in the Niger Delta region. According to Aka:

---

[48] Okonmah (n29) 395.
[49] P C Aka, 'Bridging the Gap Between Theory and Practice in Humanitarian Action: Eight Steps to Humanitarian Wellness in Nigeria' (2016) 24(1) Willamette Journal of International Law and Dispute Resolution 1, 25.
[50] Ibid. 27.
[51] Norman (n42) 173.
[52] Okonmah (n29) 394
[53] Aka (n49) 17.

The 1999 Constitution of Nigeria enumerates both political-civil and socio-economic rights, although the reality of the situation is that with respect to the latter it is merely aspirations that individuals as a matter of law cannot sue when they have been violated.[54]

As producers of the resources, priority should without question be given to the indigenous peoples of the Niger Delta region over others in the nation, but this is not the case. The Land Use Act 1978 for example is a by-product of the discovery of petroleum in the Niger Delta region and, according to the participants, was politically orchestrated to the resentment and enslavement of the oil producing communities in the Niger Delta region. Created under the Military Dictatorship of Chief Olusegun Obasanjo, what it has succeeded in achieving is making land easily and cheaply available to the government system in Nigeria.[55] According to Njoku: 'the Land Use Act 1978 is unarguably one of the most contentious legislations in Nigeria today.'[56] Laws such as these have reportedly been used by State-overseers of a market economy to deprive the communities of their properties, which is then turned over for foreign private interest via deregulation.[57] The effect of the Land Use Act transfers ownership from indigenous communities in the region to State governments,[58] expropriating indigenous lands for the purpose of resource extraction. The government's act of militarisation has seen, amongst the above, human rights violations and the denial of internationally recognized indigenous rights, against the indigenous peoples in the Niger Delta region. These actions have been seriously defended by claims of the government's actions being within the legal premise of Nigeria. The Land Use Act 1978 in its stance provides no real security/protection for the peoples, who can be victims of displacement at any point in time.

Participants expressed serious concerns for the effect this law has had in promoting oppression and agitation. The Nigerian Land Use Act of 1978 vests ownership and rights to subsurface resources on the Nigerian government, with these rights approving the collection of all accrued

---

[54] Aka (n49) 19.
[55] O Oluduro, *Oil Exploitation and Human Rights Violations in Nigeria's Oil Producing Communities* (Intersentia Publishing Ltd 2014) 83.
[56] J Njoku, 'Land Use Act: A Monster Crippling Housing Development' *Vanguard* (Nigeria, 12 December 2012).
[57] Otobo (n39).
[58] *Abioye v Yakubu* (1991) 5 NWLR; Section 28 of the Act provides the government with the right to revoke occupancy for overriding public interests (including resource exploration and exploitation).

rents and royalties.[59] Shockingly, Section 6 of this decree does not allow an inquiry into whether the decree or its implementation has contravened any of the fundamental human rights provisions under the 1999 Constitution or the AfCHPR (African Court on Peoples' and Human Rights).[60] All of these however were during the military era, as noted above. Since the country has moved on to a democratic era why then have these laws not been repealed? The answer to this is quite straightforward; it is because of the economic parasites who will not stop until the region has been denuded of its resources. Laws such as the Land Use Act 1978 and the Petroleum Act 1969 were enacted without the consultations usual in a democratic system.[61] These laws do not mirror the supposed democracy practiced in Nigeria, and the Niger Delta's indigenous peoples are but one group that bear the brunt of a 'strong headed' nation unwilling to adjust its ways to the progress of the rest of the world. According to Ukeje:

> The popular belief that the return to civilian rule from 1999 would substantially open up the political space to accommodate previously aggrieved and disfranchised groups and interests turned out to be misplaced.[62]

Where land has been revoked for resource purposes, Section 29(2) of the Land Use Act states that the Minerals Act and the Petroleum Act or any superseding legislation shall apply; all of which, unsurprisingly does not benefit the indigenous peoples in the Niger Delta region. Section 1 of the Petroleum Act 1969, supported by Section 43(3) of the 1999 Constitution (re-enacting the provisions of Section 3(1) of the Minerals Ordinance 1916 replaced in 1945 by Section 3(1) of the Minerals Act 1945) vests the entire ownership and control of all petroleum in, under or upon any lands in the State. The 1969 Act was imposed during a raging civil war with the federal military regime dominated by those from the northern ethnic regions, giving the northerners control over oil and gas wells,[63] an act that to date is yet to change as evidenced from the elite interviews. There is no sign of an adjustment in the equitable revenue of the 13% derivation fund, which from 100% in 1953 moved to 50% in 1960, then 20% in 1975, then 2% in 1992, and then to the current 13% after the establishment of the Niger Delta Development Commission (NDDC).[64] Disappointingly the people arguably do not receive the entire 13%,

---

[59] Ezetah (n30) 819.
[60] Ibid. 820.
[61] Emeseh (n40) 59.
[62] C Ukeje, 'Changing the Paradigm of Pacification: Oil and Militarization in Nigeria's Delta Region' in C Obi and S A Rustad (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro Violence* (Zed Books 2011) 83, 85.
[63] Otobo (n39).
[64] Oluduro (n55) 93, 94, 97.

which through questionable fiscal policies by the federal government is reduced. In one instance it was agreed that 5% from the 13% revenue should be devoted to the reconstruction of the devastated North East, including Kaduna and Kano (northern States), whilst the Niger Delta region remains underdeveloped and poverty stricken. Laws and policies in Nigeria, especially those in relation to resource control and land clearly violate the tenets of social justice and are inciters of the illegal act of militarisation.

Interview codes evidenced participants' justified disdain of the legal system (see Relational Statement Six), and how it continues to assist the Nigerian government in its decision to militarise the Niger Delta region. A judicial review sought by the indigenous communities in the region has, as a result of the power/political manipulation, proved to be a cul de sac for the people. Access to justice, according to Emeseh: 'connotes the absence of significant impediments to groups such as indigenous peoples, seeking redress for perceived wrongs through lawful means.'[65] Weak governances and accountability challenges have reportedly crippled agencies who are required to carry out their legal duties. The judiciary's narrow interpretations on who has sufficient interest to institute actions in court, as seen in the case of Oronto Douglas v Shell Petroleum Company Ltd and Others, has demonstrated this.[66] Important to add here is the fact that these crippled agencies are not limited to the justice system; corruption veiled agencies, such as environmental agencies adorned with the duty of allocating corporate responsibilities to international oil companies in the numerous cases where the companies have debased the environment, have also failed the indigenous peoples living in the Niger Delta region, with regard to effectively discharging their duties (see Relational Statement Four).

The failure of the law and the legal system and instruments has resulted in the people seeking justice through any means available, some of which have been through peaceful protest and street justice, and others through violent acts such as militancy, all of which have been met by militarisation from the Nigerian government. Although one may argue that violent conflict is never the answer, one must also consciously ask: What should be expected from a group who

[65] Emeseh (n40) 57.
[66] Emeseh (n40) 65; *Oronto Douglas v Shell Petroleum Company Ltd and Others* (1997) Federal High Court of Lagos Suit no. FHC/L/CS/573/96.

have not only been rendered voiceless for decades, discriminated upon and oppressed, but have seen all acts committed against them done within legal margins? Legal margins that have laws that are meant to create order in a system that should protect its people, despite class, race, ethnicity, cultural beliefs, gender and age, being used against the same people it should protect. All of what makes indigenous peoples in the Niger Delta region unique should not be the same reason that they are shunned by the laws and the legal system of Nigeria and discriminated on using legal instruments by the Nigerian government, this unfortunately remains the case. There is need for these actions by the Nigerian government to be altered. The militarisation of the indigenous communities in the Niger Delta region threatens the existence of the indigenous peoples.

SECOND FACTOR:

MILITARIZATION AS A CONTRIVANCE OF THE VIOLATION OF HUMAN RIGHTS IN THE NIGER DELTA REGION

'Freedom before the speech will be guaranteed by my regime, but freedom after the speech cannot be so guaranteed.'[67] The above quote, following the interview codes, sums up to a large extent the interview participants' expressions of the position of human rights in Nigeria. The interview participants are of the strong opinion that the military presence/militarisation of the Niger Delta region is one of the most serious threats to human rights as a whole. The governments' militarisation of the Niger Delta region has been full of human rights violations; not only are these violations an accompanying act and aftermath of militarisation, but participants' views expressed that militarisation acts as a contrivance of the violation of human rights in the Niger Delta region. The lack of regard for human rights in the region has played a major role in the permanent military presence in the region.

Human rights are essentially rights rooted in appeals to basic human nature, which all human beings have simply because they are humans.[68] Human rights abuses by the military in Nigeria is not an issue that has arisen only recently, it is so entrenched in the system of the country that

[67] A popular quote by Idi Amin of Uganda when asked his views on Freedom of Speech.
[68] Aka (n49) 363.

many have simply accepted the fact that the military would always be above all laws in Nigeria (see Relational Statement Nine). So serious is it that Bisina and Bisina asserted:

> The military in Nigeria seriously undermine the consolidation of democracy in the country and exacerbate an already tenuous security situation by fostering resentment among indigenous communities.[69]

According to a report detailed by the Human Rights Watch on the Niger Delta Region, offices of human rights organizations in the region were regularly raided under the Abacha (military) government, with members of the State Security Service visiting human rights offices and confiscating materials.[70] All of this was in an attempt to suppress the voices of the oppressed and those who challenges their acts of injustice. Example of one of these attempts by the Nigerian government to suppress the voices of peoples those challenging their methods in the country is seen when journalists under the Abacha (military) government were targets for arbitrary detention for criticizing the government, and those reporting on the developments in the oil communities have also been subject to harassment. Furthermore, an example was given of a visiting doctoral student in the Niger Delta being stopped and questioned for an hour, having been told that white people come into the region to cause trouble for the oil industry.[71] It is important to note that democracy (debatably) has since taken over in Nigeria since the death of Abacha. Interview codes and detailed accounts evidenced that although democracy has supposedly taken over from the military leadership in Nigeria, this has not been effected in Nigeria's Niger Delta region, whose peoples remain victims to the government's military officials. Obi notes:

> Nigeria's return to democracy in 1999 both opened up the political space for the campaign for resource control by the indigenous peoples of the Niger Delta, and unfortunately contributed to the increased militarization of the Niger Delta.[72]

Some military actions that have showed clear violations of peoples' human rights in the Niger Delta region following Nigeria's return to democracy were listed in Chapter One. Evidence of the militarisation after 1999 is noted in when the Nigerian army destroyed the town of Odi in

---

[69] Bisina and Bisina (n14) 77-78.
[70] Human Rights Watch (n20) 121.
[71] Ibid.
[72] C Obi, 'Resource Control in Nigeria's Niger Delta' (2008) 3(16) Environmental and Planning Law Review 69, 70.

Bayelsa State killing 2,483 people under claims that nine police officers had been murdered in the community,[73] this is clearly a more serious incident than any in the Niger Delta region under the military regime. To date there has been no thorough investigation of the destruction of Odi, no prosecutions of any of the soldiers involved, no government effort to compensate the victims or rebuild the community; the officer in charge of the operation, General Victor Malu, was shockingly reportedly promoted.[74] The then president of Nigeria, Olusegun Obasanjo, although agreeing that the soldiers in Odi had gone beyond their brief, disappointingly commented:

> I have no apology to make… Everybody is saying that our problem is security. There is a difference between doing what is wrong and doing what you have to do.[75]

The above comment is, if casually expressed, beyond disappointing coming from the president of a country, whose duties include the protection of the people of the country, citing constitutional provisions allowing him as the commander-in-chief to determine the operational use of the armed forces. General Victor Malu when responding to questions about the above incidents insisted that the actions were approved by the president prior to their operation and denied all evidence of wrongdoing.[76] As evidence of the obvious disregard for peoples' human rights in the Niger Delta, participants following such commentaries expressed their concerns about the fact that they believed that they, as peoples, are being exploited for economic growth whilst being subjected to discrimination by the same people exploiting them.

According to Amnesty International, in 2016, on Nigeria:

> The security forces continued to commit serious human rights violations, including extrajudicial executions and enforced disappearances. The police and military continued to commit torture and other ill-treatment. Conditions in military detention were harsh. Communal violence occurred in many parts of the country. Thousands of people were forcibly evicted from their homes.[77]

---

[73] P O Okumagba, 'Militancy and Human Rights Violation in the Niger Delta' (2012) 3(2) International Review of Social Sciences and Humanities 28, 32.
[74] Human Rights Watch (n20)128-129.
[75] Human Rights Watch (n20) 129.
[76] Ibid.
[77] Amnesty International (n1).

The army, navy, and parliamentary mobile police personnel are still widely deployed across the region, mostly at oil facilities, with recorded abuse against civilians,[78] with operations such as 'Operation Fire-For-Fire', 'Operation Crocodile Smile', and 'Operation Delta Safe'. According to Human Rights Watch, in July 2012, national police spokesman Haz Iwendi told reporters that the police since the enforcement of 'Operation Fire-For-Fire' had killed 225 suspected armed robbers in 100 days since March.[79] 'Operation Delta Safe' was created under the pretext of looking for militants, with two military aircraft and four gunboats, as reported by the media and the victims. The operation led to the invasion of the Okosugbene village, occasioning the deployment of those aerial and marine military hardware on the civilian community, inflicting maximum pain and anguish on the villagers, shooting 14 villagers.[80] The manner in which this military operation was launched paid no regard to the sanctity of human lives. Nigerian soldiers have also reportedly in the past resorted to poisoning streams that cross enemy lines in the Niger Delta region with the aim of poisoning and thereby destroying the 'enemy', destroying lives and livelihoods.[81]

According to Aka:

> Human rights, although taken to have a special reference to the ways States treat their own citizens, are not in any way limited to acts of violations by governments representing the States; violations can also be carried out by non-state actors including individuals and organizations.[82] (see relational statements three and four).

It is important to refer to instances where the government has supported such acts or ignored the occurrence of such acts and, according to participants, they continue to provide this support. Besides human rights violations by the Nigerian military, there is the abuse of human rights by the multinational oil companies, who have over the years worked hand in hand with the Nigerian military for their mutual benefit. In a report titled 'Counting the cost: Corporations and human rights abuses in the Niger Delta' it was found amongst other issues that: 'Shell's

[78] Human Rights Watch (n20) 92.
[79] Ibid.
[80] E Amaize, 'Army, Navy Shoot 14 in Delta Communities, 3 Residents Missing' *Vanguard* (Nigeria, 26 November 2016).
[81] E E Ama-Oji, 'Legal Protection of the Environment in Times of Armed Conflict' (2005) 3(4) Environmental and Planning Law Review 100, 100.
[82] Aka (n49) 31.

close relationship with the Nigerian military exposes the company to charges of complicity in the systematic killing and torture of local residents.'[83]

The above report asserted that Shell alone by 2014 had hired over 1,300 government forces, who depend heavily on Shell for support, as armed guards.[84] Important to note here is that an issue which arose from the interviews in with the militarisation of the region appeared to be with the number of troops invading the region. The primary concern and issues raised, are with the military officials and in turn non-state actors, such as international oil companies' actions. Foreign extractive firms such as Shell, have been evidenced to provide incomes necessary to political survival, meaning that political, economic, environmental and human rights are frequently ignored for the convenience of extractive industries.[85] According to the Human Rights Watch:

> The Voluntary Principles on Security and Human Rights, an initiative of the Clinton administration, established in 2000, which has amongst its key principles conflict mitigation, is a set of principles designed to guide companies in maintaining the safety and security of their operations within an operating framework that encourages respect for human rights. It is guided by the three pillars: government, companies and NGOs (non-governmental organisations). American and British officials, in 2001, travelled to Nigeria to discuss the principles with oil companies subscribing to them and others that were interested, as well as the Nigerian government.[86]

Several companies operating in the Niger Delta are signatory to the principles, including Shell and Chevron. What this shows is that the country has been introduced to policies that should have inherently provided protection for the indigenous peoples living in the Niger Delta region, but what has appeared to be the case is the choice to ignore these attempts by all actors. Shell for example has reportedly succeeded in violating the peoples' right to economic and social development, right to existence and right to freely determine their political status, through their support and role in the acts of militarisation.

---

[83] Amunwa and Minio (n25).
[84] Ibid. 12.
[85] Norman (n42) 174.
[86] Human Rights Watch (n20) 154.

Participants' accounts and the interview codes revealed that in a bid to cover up all of their actions Shell are reported to have actively encouraged and assisted large scale military attacks against indigenous communities and peaceful protestors in the Ogoni region of the Niger Delta – attacks that on one of the occasions where they provided aid to the armed soldiers reported the killing of 35 civilians.[87] There were allegations that Shell paid the military officials who led the crackdowns against the Ogoni communities and people;[88] they however cannot effectively control the military officials. The reality of the indigenous peoples' situation then appears to be one of being victims of a resource that is a blessing to others who, according to them, have no legitimate claim to these resources. Norman notes:

> The combination of a weak state and primary commodity exports (such as petroleum in the case of Nigeria), has been shown to reduce economic growth, erode governance and increase the risk of civil war, a stylized fact that has come to be known as the 'resource curse,' with the 'resource curse' representing a major obstacle to the universal protection of human rights.[89]

Discussing resource control and the concept of the resource curse, however, is not within the remit of this research thesis's objective and aim, although one cannot analyse any manner of indigenous struggles in the Niger Region, without a mention of how it has interplayed in promoting oppression, discrimination and marginalization of the peoples. Hence the concept was highlighted in the literature review contained in Chapter One, and in the analysis of the theory and presentation of the actionable-based policy recommendations in Chapter five.

Bisina and Bisina's incorporation of the classical Stimulus Response in analysing human rights violation and the resultant conflict in the Niger Delta region states that: 'violence begets violence and human rights violation will beget human rights abuse.'[90] This means that human rights violations by State security forces will lead to a corresponding human rights abuse by non-state groups and civilians, and as noted above, for every environmental degradation there would be a corresponding resistance to and agitation for a cleaner environment. The rights struggle was elevated by the MOSOP movement and Ken Saro-Wiwa, it was following this that indigenous peoples in the region learnt to appreciate their human rights and understand how they have been infringed.[91] Increased respect for human rights, as noted by participants,

[87] Amunwa and Minio (n25) 12.
[88] Ibid.
[89] Norman (n42) 173.
[90] Bisina and Bisina (n14) 76.
[91] Owen (n36) 63-64.

is key to solving many of Nigeria's problems; simply put, human rights can build Nigeria.[92] In the same breath the Nigerian government's ability to violate human rights at will has been a motivation of their decision to militarise the Niger Delta region.

Militarisation in the Niger Delta region appears to be the only policy that the Nigerian government is willing and able to apply when dealing with conflict in the region; responses to conflicts have consisted of double talk, unfulfilled promises and arm twisting strategy.[93] The government's approach to curbing violent conflicts, and in turn militancy, through the militarisation of the Niger Delta region has only resulted in the violation of the peoples' human rights. Okumagba opines:

> Militancy is a direct response to the human rights violations and the perceived neglect, and marginalization of the region by the Nigerian State and environmental and human hazards imposed on the Niger Delta communities and inhabitants occasioned by exploration and exploitation by oil multinationals.[94]

He further suggests that the government should demilitarise the region as a means of paving the way for sincere dialogue and addressing human security issues.[95] This is not a case for militancy, or a defence for it, militancy is illegal in its entirety. What is necessary here is that the military discharges its statutory functions of curbing criminal activities proven strictly within best practices and rules of engagement with regard to the sanctity of lives of innocent citizens living in these indigenous communities.

From the above observations and analyses one is led to understand participants' justifiable concerns for the role that the absence of human rights protection has played in the continuous militarisation of the Niger Delta region. Permanent military presence in the region as seen from the above analyses, is deeply rooted in the region's history. Military force has become the answer to all issues regarding these indigenous peoples. Officials brought in under the guise of curtailing violent conflicts go on to commit serious violations of these peoples' human rights, in turn further fuelling violent conflicts, hence providing no solution for the peoples to live in peaceful communities.

---

[92] Aka (n49) 4.
[93] Okumagba (n73) 33.
[94] Okumagba (n73) 29.
[95] Okumagba (n73) 35.

THIRD FACTOR:

REPUDIATION OF INDIGENOUS RIGHTS IN THE NIGER DELTA

According to Ibiba: 'the Niger Delta today cannot be compared to the Niger Delta of ten years ago, before the Ogoni struggle, because everyone now is so aware of their rights.'[96] Like all violent conflicts, resource inflicted conflicts have collateral rights impacts that go far beyond death tolls, and that have seen political manipulation at even the highest levels to render indigenous peoples in the Niger Delta region voiceless, as seen from previous observations in this Chapter. Major concerns expressed by participants were on how the Nigerian government, despite the special status of indigenous peoples around the world, recognizes no laws for the protection of the region's indigenous peoples. Indigenous struggles for rights are not new to the world as a whole. They are a group of peoples who although blessed with resources on their lands, have suffered the consequences of an economy driven world. Hence they have for decades struggled for some manner of protection from their governments, and have to a commendable extent succeeded. Nigeria's Niger Delta indigenous peoples have, however, yet to secure any volume of rights recognized by the government, despite the resources found on their lands, and being subjected to one of the worst cases of discrimination, marginalization, dispossession, oppression and militarisation that indigenous societies have seen.

The Nigerian government, as a matter of law, must, besides protecting individual rights from which they have failed absolutely to do for the people of the Niger Delta region following the evidence above, protect collective or group rights which are necessarily complementary to individual rights. Indigenous peoples have rights under international law.[97] Rights that individuals, as members of these indigenous communities, are entitled to and should enjoy regardless of societal opinions or views. Individual rights, however, are not sufficient to serve the purpose for which indigenous rights are intended because, for example, culture is a group phenomenon which will need the collective rights to be effective.[98] Interview codes revealed that these collective/group rights in the context of indigenous peoples will conveniently complement the individual human rights of community members when they are finally recognised.

---

[96] A comment made by journalist Ibiba Don Pedro in text; Owen (n91) 63.
[97] Aka (n49) 21.
[98] O I Ademodi, *The Rights and Status of Indigenous Peoples in Nigeria* (Bauu Institute and Press 2012) 39.

The protection of indigenous land, which is so vulnerable to the greater economic and political power of the large and dominant society, is one of the most important collective rights available to indigenous peoples,[99] but is unavailable to the indigenous peoples of the Niger Delta region. Reference is made to these important rights because of the oppressive land rights system in Nigeria, amongst others. This oppressive land system has resulted in the indigenous peoples being displaced without any compensation, as a result of the Land Act 1978. Indigenous peoples are typically referred to as being amongst the:

> Most economically destitute members of the human family and have gone on to experience, on a frequent level, loss of lands and resources to governments, commercial entities and colonizers.[100]

In light of these established facts, indigenous peoples make several claims on international and domestic processes, claims which are contingent upon their specific historical, political, economic, social and cultural experiences and the international, regional or domestic circumstances at any given point in time.[101] Hence it becomes vital, following the observations, to analyse the history of indigenous rights/claims in Nigeria, and the role their absence have come to play in the motivation of the continuous militarisation of the Niger Delta region, as revealed from the interview codes.

According to Ndahinda:

> Indigenous rights activism in Africa echoes global indigenous discourses over colonial and post-colonial injustices, historical marginality and the pressing need for empowerment measures that enhance claimant communities' rights to self-determination.[102]

In Africa the leaders are described as being more interested in continuing with the arrangement left behind by the colonial masters than in making any effort to alter these arrangements to continue their peoples' cultures, desires and ways of life.[103] Governments in African countries

---

[99] Ibid. 40.
[100] C Oguamanam, 'Indigenous Peoples' Rights at the Intersection of Human Rights and Intellectual Property Rights' (2014) 18(2) Marquette Intellectual Property Law Review 261, 267-268.
[101] Ibid. 269.
[102] F Ndahinda, 'Historical Development of Development of Indigenous Identification and Rights in Africa' in R Laher and K Sing'Oei (eds), *Indigenous People in Africa: Contestations, Empowerment and Group Rights* (Africa Institute of South Africa 2014) 24.
[103] Ademodi (n98) 118.

either argue that all groups in their country are indigenous or they claim that there are no indigenous peoples in their country. Africa's inclusion in the global movement for indigenous rights has, however, made significant progress over the past decade,[104] and it has been established that indigenous peoples do exist in Africa, and consequently in Nigeria. The characteristics of the indigenous peoples living in Nigeria's Niger Delta qualifies them to be regarded as indigenous, hence why it becomes necessary for their rights/claims to be specially recognized by not just the government but the world.

Participants asserted strongly that the peoples of the Niger Delta region are indigenous, hence should be provided with indigenous rights, as developed by the United Nations and accepted by the world. This is despite the fact that there is no agreed upon definition for indigenous peoples. What there is, as is seen in the definitions section in Chapter One, is a character checklist in identifying when a group is classed as indigenous. Noteworthy is the fact that self-identification of particular communities as indigenous peoples is as a result of local and global dynamics, hence there is a non-exhaustive list of groups that consider themselves to be indigenous.[105] Ndahinda rightly notes: 'people in Africa can be regarded as indigenous based on their situational characteristics and because they themselves identify as such.'[106] This, however, is yet to change the leaders' point of view, as in Nigeria, where their current stance towards indigenous peoples can still be likened to past colonial administrations, which saw the African pre-independence desire as an ancient ideal that was only intended to cause disturbances within the law and administration.[107] Indigenous rights, according to the participants, are vital to their existence as a whole, but more specifically would provide protection from the continuous militarisation of the region which have seen the peoples' rights being violated by the government.

The critical nature of group/collective rights in Nigeria is longstanding, and is even highlighted in the fact that it was the fear of majority domination by minority groups, such as the indigenous peoples of the Niger Delta, that led to the enshrinement of 'fundamental rights' in Nigeria's

[104] See generally M Pelican, 'The Indigenous Rights Movement in Africa: Perspectives from Botswana and Cameroon' (2015) 36(1) African Study Monographs 49.
[105] Ndahinda (n102) 24.
[106] Ndahinda (n102) 36.
[107] Ademodi (n98) 119.

1960 Constitution.[108] Efforts have been made by communities and organizations to persuade the government to develop and enforce national legislation aimed at human rights protection and promotion, and in turn documents aimed at their protection as indigenous peoples. The government's treatment of the indigenous peoples in the Niger Delta region in light of situations of oppression, marginalization and discrimination, has shown utter disregard for group/collective rights, evidencing no success for the communities and organizations. Indigenous peoples around the world have a set of common problems that include seeing their lands being taken away, having limited political freedom, languishing in abject poverty and despair, and having rural ways of life imposed on them.[109] Based on all of these issues, indigenous peoples around the world have successfully demanded that their rights be recognized internationally, following the adaptation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007, but those in Nigeria have not been successful with this.

Of the demands by the indigenous peoples living in the Niger Delta region, is the much debated and controversial demand for the right to self-determination, which was highlighted in the literature review section of Chapter One. Self-determination, according to James Anaya, UN Special Rapporteur: 'is a human right norm that already exists as part of international treaties and is widely accepted as part of general or customary international law.'[110] It is vital to note, following the Lubicon Lake Band case,[111] that self-determination in all its glory is not meant to be an individual right. The struggle for self-determination by indigenous peoples in the Niger Delta is well documented and known. Oronto Douglas stated:

> The Ijaws and other people of the Niger Delta have conquered death in our peaceful struggle for self-determination… if we are afraid of death, we will not get freedom. If we fear death, we will not get justice.[112]

Indigenous peoples around the world are known to tie their means of survival to their cultural beliefs and lands, but the acts of both the government and international oil companies have created an undeniable wedge with these beliefs. The struggle of indigenous peoples to avoid

---

[108] Aka (n49) 22-23.
[109] Ademodi (n98) 81.
[110] Ademodi (n98) 82.
[111] *The Lubicon Lake Band Case*, Communication 167/1984 U.N. Doc CCPR/38/D/167/1984 (March 28· 1990).
[112] T N Tamuno, *Oil Wars in the Niger Delta 1849-2009* (Stirling-Horden Publishers Ltd 2011) 95.

being propelled into extinction have proven futile in the Niger Delta region. Participants' views expressed concern for the acts of oppression and violent attacks on these communities which have seen military officials destroying indigenous 'gods' when carrying out discharging their functions. The military, according to the participants, are under no legal construct that regulates their behaviour in the region to ensure that they carry out their functions legally. The militarisation of the indigenous peoples in the Niger Delta is incited by the fact that indigenous peoples in Niger are not protected under the UNDRIP 2007.

Interview codes evidenced that easy and uninterrupted access to resources for the government means more money, which the government is unwilling to lose, and therefore have validated military presence as a way of protecting the nation's economy (see Relational Statement Eight). Some communities in the Niger Delta have also attempted to assert rights over the natural resources under their land, notwithstanding the fact that Section 44(3) of the 1999 Constitution and Section 1 of the Petroleum Act 1969 vest ownership of resources in the Federal government. This is a right which is a core right recognized under the UNDRIP 2007 and is closely related to the right to self-determination but has proved to be difficult and sensitive. MOSOP for example campaigned for Ogoni rights through its encapsulation in the 1999 Ogoni Bill of Rights, which demanded amongst other things: 'the control of Ogoni resources for Ogoni development, political autonomy, compensation for decades of exploitation of Ogoni oil and oil pollution, amongst others.'[113] Erica Daes in her study into the rights of indigenous peoples to their lands concluded:

> Indigenous peoples have a distinctive and profound spiritual and material relationship with their lands, with the air, waters, coastal service, flora, fauna, and other resources and that relationship has various social, cultural, spiritual, economic and political dimensions and responsibility.[114]

There have, however, been questions about whether the highly contested language of rights has the capacity to resolve the problems in the Niger Delta today.[115] Omorogbe argues:

---

[113] Obi (n72) 72.
[114] E A Daes, 'Prevention of Discrimination and Protection of Indigenous Peoples and Minorities: Indigenous Peoples and Their Relationship to Land' (Working Paper for Working Group on Indigenous Populations, June 2001, E/CN.4/Sub.2/2001/21).
[115] Owen (n91) 66.

> Indigenous oil communities, rather than seeking protection under indigenous ownership rights, should look towards municipal laws and regulations which take into account their special status for protection.[116]

This was, however, suggested prior to the UNDRIP 2007, so it is safe to say that with the clear-cut provisions under the UNDRIP, indigenous peoples in the Niger Delta region and in Nigeria as a whole, should seek for justifiable protection under the UNDRIP. Nigeria, having abstained from voting for the UNDRIP, did promise to continue to promote the issue of indigenous peoples' rights, culture and dignity, which, according to Ademodi, is an indirect affirmation that indigenous peoples truly exist in Nigeria.[117] Following this research thesis's interview codes, it is safe to say that they are yet to keep this promise, as the indigenous peoples of the Niger Delta region continue to be subjected to unacceptable treatments such as the militarisation of their homes from the Nigerian government, which the UNDRIP 2007 clearly does not sanction following its provisions as noted in the actionable-policy recommendations in Chapter Five.

The peoples' quest for self-determination, within the premise of the provisions of the UNDRIP, reinforced the grievances already in place with the government. Self-determination, according to Anaya: 'is a right that benefits all segments of humanity'.[118] I was guided, through the conducting of the elite interviews, to past documents that evidenced the peoples' struggle for self-determination, citing the government's unsupported fear of secession. This fear of secession is unsupported because the general belief of nation states with respect to the right of self-determination is that the right will never be exercised to the detriment of independence and the territorial integrity of nation states and that self-determination does not imply the right to secede.[119] The reality behind the fear of secession is questionable with reference to the history of Nigeria and the level at which the region is intertwined with the existence of the country as a whole, as discussed within the theoretical frameworks in Chapter One.

What the indigenous peoples seek following the interview codes, as interpreted by me following further analyses, in all these struggles leading to the Nigerian government's decision

---

[116] Y Omorogbe, *Oil and Gas Law in Nigeria* (Malthouse Law Books 2001) 151.
[117] Ademodi (n98) 76.
[118] Ademodi (n98) 83.
[119] Ademodi (n98) 83.

to militarise the Niger Delta region, is better treatment from a country that is supposedly meant to protect their interests at the very least, and their existence. The militarisation of the Niger Delta region ensures that this is not attainable for the people because logically where these rights are available for the peoples Nigeria will become answerable for some of her actions against these peoples.

CONCLUSION

The militarisation of the Niger Delta region is detrimental to the entire existence of its indigenous peoples. It has instead of peace and security brought about insecurity. Activities of violent conflicts between communities and military/security officials have developed to a worrying degree, that sees the safety of the people being threatened by the same bodies created to ensure that they are protected. Resource-based issues, insurgency and violent conflicts are constantly referred to by the Nigerian government when questioned about their decision to militarise the Niger Delta region. These interview codes, however, revealed deep-rooted legal issues as the motivators of the Nigerian government's decision to militarize the Niger Delta region, coupled with violent conflicts as instigated by both the Nigerian government and the indigenous peoples. This transformative paradigm research within its critical theorist characteristic through the use of elite interviews, was able to gain insight into participants' (elite indigenous peoples in the Niger Delta region) views on what they believe, from a predominantly legal, but coupled with historical, social and economic factors, is the reason behind the militarisation of their homes/communities.

A system buried by illegalities and injustice, which have resulted in the permanent military presence in the indigenous communities of the Niger Delta. Democratic governance is not evidenced in the region, as seen not only in laws that are ancient (created during the military rule), but also in the government's actions with regard to human rights and indigenous peoples' rights. The people make up the country Nigeria, not the other way round; without the people there would be no Nigeria. One cannot stress enough the importance of security and justice in the world as a whole, and to see that in the Niger Delta region, both security and justice are working against the people, provides a broader picture of the unsettlement in the region that has spanned decades. Laws in Nigeria, even when they are clearly discriminatory, are rarely adjusted to accommodate the people, with even less likelihood of being repealed. The laws

continue to act as a bullet in the hands of the oppressors against the indigenous peoples in the Niger Delta. Where they should be protected under human rights provisions, little is done to ensure this is so, and where international laws create loopholes to provide them with some rights, not just to claims but to protections, the Nigerian government is sure to cleverly avoid being encouraged to allow the people these rights, no matter how little.

CHAPTER FOUR

CRITICAL AND CONSTRUCTIVE ANALYSIS OF DOCUMENTS CODES; GOVERNMENT, INDIGENOUS ORGANISATIONS AND MEDIA ACCOUNTS OF THE NIGER DELTA STRUGGLE

INTRODUCTION

This chapter analyses the codes from the data, which used Charmaz's constructivist grounded theory method, of documents created to address the struggles in the Niger Delta region. It is impractical to venture into addressing the social and legal motivation of the Nigerian government's decision to militarise the Niger Delta region without looking at documents that have addressed indigenous peoples' struggles and demands, whether directly or indirectly. The documents analysed, as listed in Chapter Two and Appendix C, were presented under three types; official documents derived from the State (reports and recommendations), official documents derived from indigenous organisations (petitions, demands and recommendations) and documents in the form of mass-media outputs (articles from independent newspapers in Nigeria).

The critical and constructive analysis of documents presents the purpose, content, and response of documents from three key actors (government, indigenous people, and the media) who have directly or indirectly played roles in the continuous militarisation of the Niger Delta region. The analysis of the documents was undertaken as a means of supporting the interview codes and emergent categories. Documents, as noted in Chapter Two, are often used in support of other qualitative methods. This assisted the research in arriving at the research thesis's objective by answering the question regarding the social and legal motivations behind the Nigerian government's decision to militarise the Niger Delta region from the development of a constructivist grounded theory. It was from this theory that actionable-based policy recommendations geared towards the legal protection of the indigenous peoples living in Nigeria's Niger Delta region were proposed. These recommendations, as previously highlighted, if effected by the Nigerian government, would mean the end of militarisation in the Niger Delta region.

The documents, as noted in Chapter Two, were selected following extensive research into the Niger Delta region and recommendations from interview participants.

> Bowen, in his methodological search for relevant documents, in his grounded theory study reviewed approximately 40 documents, placed them in context, and coded them for analysis. The documents included Social Fund Policy, special reports, and newspaper articles, amongst others.[1]

Researchers should, when analysing documents as part of a data collecting technique, identify the documents analysed and also detail the selection process of the documents.[2] A list of the documents analysed in this research thesis can be found in Chapter Two, and also in Appendix C. In the process of selecting the documents I visited several libraries within the region reviewing archive papers and documents on the Niger Delta Region, amongst which were the Delta State Library and the College of Education Library, both in Warri, Delta State. Documents initially reviewed were in the forms of magazine reports, newsletters, policies, special reports, newspapers (online and hard copies), Constitutions, Bills, Declarations, Charters, amongst others. Documents reviewed were, following the transcription and analysis of the interviews which occurred as interviews were being conducted and documents were being gathered, then filtered based on their relationship to the phenomenon, emergent categories from the interview codes and their overall importance. I checked the data with interview data, applying the constant comparative process. Through this I was able to identify the references and connections to the participants' accounts and experiences, ensuring that the theory developed was from indigenous peoples' accounts. It was in that tune that the I ensured that all documents selected were relevant to the research. It was during this selection process that the documents were categorized into the three types. The three types are; official documents derived from the state, official documents derived from indigenous organisations and media reports in the form of newspapers.

As with Bowen, the analysis of the documents data in this constructivist grounded theory research was guided by the application of the constant comparative process.[3] Individual documents were initially coded using the line-by-line method, then axial coded; the axial codes

[1] G Bowen, 'Document Analysis as a Qualitative Research Method' (2009) 9(2) Qualitative Research Journal 27, 35.
[2] Ibid.
[3] Bowen (n1) 37.

are presented in the coding chart format introduced by Scott. The chart can be found in Appendix B; for official State documents B3, Official indigenous documents B2, newspapers B1. Axial coding charts according to Saldana: 'extends the analytical work from initial coding.'[4] From the axial code charts the relational statements for each document type was developed. This chapter thus presents the relational statements, then proceeds to discuss these statements, and lastly analyses the emergent categories derived from the codes and relational statements. These analyses assisted in building this research's theory.

Documents analysed revealed underlying issues intertwined within the documents, with reports and how the document contents and creations have come to motivate the Nigerian government's decision to militarise the Niger Delta region. The issues that graduated from being on paper to directly influencing behaviour and laws, are not just those of the indigenous peoples themselves, but also from the government international organizations, the majority of which are yet to experience first-hand the illegality entwined with the militarisation of the Niger Delta region. All of these factors, as with the interviews' codes, are classed as emergent categories, and consequently overlap in their functions and roles in motivating militarisation. This research thesis contextualised, following the constant comparative process, these factors to three main problem areas that needed to be analysed, in order to understand behaviour, as the motivation behind militarisation often comes from a deep seated lack of stability or cracks in foundations. This assisted in the presentation of the constructivist grounded theory and also in the satisfaction of this research's ultimate aim of proposing actionable-policy recommendations geared towards the legal protection of the indigenous peoples living in Nigeria's Niger Delta region against militarisation. These factors/emergent categories are;

- Recognizing and understanding underlying issues in the region
- Indigenous ethnic communities' divide and conflicting interests
- International image: 'Indigenous peoples as puppets in the circus called Nigeria'

Important to note here is that the emergent categories/factors analysed constitutes a combination of all relational statements developed for the documents codes. All of the above listed factors are analysed in detail, with direct reference to the relational statements developed,

[4] J Saldana, *The Coding Manual for Qualitative Researchers* (3rd Edition, Sage Publication 2016) 244.

and analysis from the preceding interviews codes provided in Chapter Three. This is because the findings from the documents are intended to support the interview findings' assertions. According to Bowen:

> Documents analysis is a low-cost way to obtain empirical data as part of a process that is unobtrusive and nonreactive. Often documentary evidence is combined with data from interviews to minimise bias and establish credibility. Although the strengths of documents analysis are considerable, the researcher should not use it as a stand-in for other kinds of evidence that may be more appropriate to the research problem and the study's framework.[5]

Relational Statement One – Media – Newspapers

Conflicting reports have successfully solidified the aggressive image of the Niger Delta region to the general public.[6] Reports of militancy and ethnic conflict[7] ignoring the underlying issues, has led other citizens of Nigeria to overlook the actual struggles faced by the peoples in the region. Reasons why these conflicts have arisen, such as human rights violations, oppression, discrimination and refusal to acknowledge any sort of rights for indigenous peoples, are often ignored in reports. Different reports about imagined facts have worsened issues for the peoples in the region; for example, according to the media the chief objective of suspected Niger Delta militants is to cripple oil production.[8] Such conflicting reports have led to the presentation of the peoples being continually neglected. The neglect has then led to more agitation, violent conflicts, protests and the government's choice to make permanent the presence of the military in the Niger Delta region.

---

[5] Bowen (n1) 38.

[6] E Amaize, 'Militants: Buhari's Threat Tears N-Delta Leaders Apart' *Vanguard* (Nigeria, 3 October 2016) – This report expressed two conflicting intentions of the President of Nigeria: one that the use of force against the indigenous peoples of the Niger Delta was being considered, and the other his readiness to use dialogue (as preferred by militants) was stated as also being under consideration.

[7] S Awhefeada, 'Urhobo, Niger Delta and NDGJM' *Guardian* (Nigeria, 27 October 2016) – Reports initiating ethnic divide, with claims of dominance from the Ijaw groups in the region with regard to compensations from claims; it asserted that other ethnic groups were being ignored.

[8] C Ebuzor, 'Militants Attack Fulani Herdsmen, Threaten to Cripple Nigeria's Economy' *Pulse* (Nigeria, 26 April 2016); S O'Neil, 'Niger Delta Militants Attack More Oil Facilities' *Sahara Reporters* (Nigeria, 17 January 2016); A Jimoh, '10 Major Problems Nigeria will Carry Over into 2017' *Daily Trust* (Nigeria, 24 December 2016).

Relational Statement Two – Indigenous Organisations – Bills, Charters and Declarations

Demands not synchronized with one another, evidences a region that is not only divided but one that promotes individual interests, rather than collective interests as should be the case, hence demands may be taken out of context.[9] There is a need for the peoples to speak with one voice.[10] Mixed reactions and reports follow leadership meetings with the government addressing the peoples' grievances.[11] The demands and petitions seeking the government's attention to the indigenous peoples' struggles in the Niger Delta have successfully been presented; the quest for solutions, however, remains on paper and have not been implemented. Requests within the documents created in 1990 are still being demanded in more recent documents from 2008. An example is the environmental protection demanded in the Ogoni Bill of Rights 1990 which is still being demanded in the Niger Delta People's Compact 2008. Conflicting demands between different communities presented in different documents have supported the lack of actions that should be aimed at protecting the peoples' rights hence preventing the people from oppression, discrimination, marginalization and militarisation.

Relational Statement Three – Nigerian Government – Reports and Recommendations

The focus on the proposed development plans of the region in all government reports rather than a presentation of rights, which is the origin of the conflicts that have hindered development, shows the government's determination to continue oppression whilst appearing to the international community as dutiful to its people. Where such reports have presented errors and recommendations on the rights system in Nigeria affecting the region, such as the Etiebet Report 1994 and the Ogomudia Report 2001 in which it was suggested that the government reviewed laws such as the LUA1978 and the PA1969 amongst others, they are never implemented.[12] Instead more reports are created and the non-implementation circle

---

[9] The Ogoni Bill of Rights created by the Ijaws for example saw the people demanding political autonomy in the affairs of the country to enable them to participate as a separate and distinct entity, whilst the Kaiama Declaration, also created by the Ijaws, then focused on issues bordering on the continuous survival of the indigenous people within the Nigerian state with regard to changing laws and the halt of military deployment to Ijaw territories.

[10] An attempt was made to achieve this in the Niger Delta Peoples' Compact 2008, which was a combination of representatives from the nine states that make up the Niger Delta region, and key opinion leaders.

[11] As evidenced in the relational statement for media reports (newspapers), reports on indigenous issues continue to show disunity and individual struggles. Having indigenous rights collectively recognised will not be achieved by the separation that has been evidenced in the indigenous organisations' demands thus far.

[12] The Technical Committee on the Niger Delta, 'Reports of the Technical Committee on the Niger Delta' (2008) 1(18) http://www.waado.org/NigerDelta/niger_delta_technical_com/NigerDeltaTechnicalReport.pdf accessed 17 September 2017.

continues. The lack of attention to the actual needs of the peoples and the systematic cover-up of the peoples' struggles have only resulted in more conflict in the region – conflict between the peoples and the government, and between the peoples and those in the communities with power who place their own interests above the need for indigenous interest to be voiced.[13] Hence the continuous militarisation of the region.

DISCUSSION OF RELATIONAL STATEMENTS

Analysis of the documents revealed the three predominantly socially motivated emergent categories listed above. Relational statements developed from the axial coding chart for the three types of documents, as with those from the interview codes in Chapter Three, are relevant to the presentation of this research thesis's theory. The theory essentially provides a unified theoretical explanation of the legal and social factors that have motivated the Nigerian government's decision to militarise the Niger Delta region. It was from the theory that this research thesis achieved its ultimate objective of proposing actionable-based policy recommendations geared towards the legal protection of the indigenous peoples living in the Niger Delta region. According to Newsom:

> Neither Nigeria nor foreign donors are investing enough to end violent conflict in the Niger Delta. While Nigerian officials opt to buy short-term cease-fires, such as the 2009 amnesty process, other governments spend too little in money and manpower to grow local civil society, engage in core conflict issues, or adequately understand the region's problems.[14]

Nigeria, like most developing countries, is under the power of a government that would rather silence critics than address issues of the violation of peoples' rights, which have been done through acts such as militarisation. The relational statements and consequently emergent categories from the document analysis, and also from interviews' findings in Chapter Three of this research thesis, revealed that decades of setbacks are yet to change the Nigerian government's outlook on indigenous issues. Documents codes revealed that the presentation of petitions such as the Ogoni Bill of Rights 1990 and the Kaiama Declaration 1998, amongst

[13] Ibid.
[14] C Newsom, 'Conflict in the Niger Delta: More than a Local Affair' June 2011 United States Institute of Peace Special Report 1, 1 https://www.usip.org/sites/default/files/Conflict_Niger_Delta.pdf accessed 17 September 2017.

others, have been met with the militarisation of the region, and acts of human rights violations against the peoples. Document codes further revealed, as interpreted by me, that methods proposed and acted upon by the government to evidence the peoples' struggles have been deeply flawed, with almost no intention of protecting the indigenous peoples.

Analysis of the documents, their creation and intention, revealed that the media mandated to achieve their owners' political, social and economic ambitions, have come to act as microphones only for the owners' ideology, mostly swayed in favour of those in power. The continuous militarisation of the Niger Delta region is evidence of this fact, as uncovered from document codes, and the interview codes in Chapter Three. The voices that have been heard are those of violence only and, consequently, the measures that have been applied by the Nigerian government are those of military repression. What became apparent from both the documents and interview codes was that the only remedy the government has followed through to the end since the problems in the Niger Delta emerged, is the deployment of the military to the region. This has been done under the apparent threat of violent conflict, insurgency, and secession. So obvious is this fact that when looking at the content of the documents, the common denominator is that they always appear to be the last resort in tackling indigenous struggles and violent conflicts. The militarisation of the indigenous peoples has become so acceptable to the government that it overshadows any other approach that could be applied in attempts to resolve the conflict in the Niger Delta region.

From the presentation of official and non-official reports, the government have created programmes that are meant to elevate the living situation of the indigenous peoples in the Niger Delta region. These programmes, however, have been plagued by the continuous militarisation of the region. This research thesis asserts that both cannot and should not go hand in hand. Amunwa and Minio rightly notes:

> The limited gains of programmes such as the amnesty program established in 2009 could easily be undermined unless security from the Nigerian government through its officials is based on respect for human rights, the protection of shared interests and the involvement of all stakeholders.[15]

[15] B Amunwa and M Minio 'Counting the Cost: Corporations and Human Rights Abuses in the Niger Delta' (Platform, October 2011) 13 http://platformlondon.org/nigeria/Counting_the_Cost.pdf?utm_medium=email&utm_campaign=Nigeria+report

Furthermore, according to Newson:

> The 2009 programme is but an instance of Nigerian and international actors treating conflict in the Niger Delta region as a periodic regional headache instead of something that raises serious threat to not just regional interest but national interest.[16]

Following the interview and documents codes, there appears to be an obvious absence of a strategic people-considerate approach to tackling indigenous issues in the Niger Delta region. This makes one question the social foundation that documents such as the Willink Commission Report 1958, the Etiebet Report 1994, and the Ogomudia Report 2001 were created on by the Nigerian government, apparently: 'for the benefit of the indigenous peoples living in the region.' This research thesis, as noted in the preceding chapters, stands on the premise of a transformative framework which mandates the critical analysis of injustices and laws. Hence there is a need for analysing not just the documents but the intention behind the documents, supporting Charmaz's assertions of the importance of creating knowledge together with research participants.[17]

Over the years, indigenous groups and organisations have made demands from the Nigerian government for the alleviation of poverty of the people and the development of their communities, in the form of documents such as declarations, bills and charters. These documents such as the Ogoni Bill of Rights, the Kaiama Declaration and the Niger Delta Peoples' Compact 2008, as revealed from the document codes, are farther from being secessionist in character, as the Nigerian government had previously implied. What they are, are calls for justice and development for the disadvantaged indigenous peoples living in the Niger Delta region. In October 1990 the Ogoni people presented the Ogoni Bill of Rights, articulating their struggles, to the military government of Nigeria under the rule of General Ibrahim Babangida.[18] The Ogoni people held on to this hope more after the military relinquished power to a democratic government, but this is yet to better the indigenous

---

&utm_content=Nigeria+report+CID_6addf4ad4ab7379a0625f65cb36b120e&utm_source=campaign+monitor&utm_term=new+report accessed 14 February 2017.

[16] Newsom (n14) 5.

[17] M Redman-MacLaren and J Mills, 'Transformational Grounded Theory: Theory, Voice and Action' (2015) 14(3) International Journal of Qualitative Methods 1, 6.

[18] C R Ezetah, 'International Law of Self-Determination and the Ogoni Question: Mirroring Africa's Post-Colonial Dilemma' (1997) 19 Loy. L.A. Int'l and Comp. L.J. 811, 817.

struggles in the Niger Delta region.[19] The above document and intention behind it is clearly farther away from inciting any violent conflict in the region. What these peoples have addressed over the years are concerns for the lack of development that has followed the exploration of resources in their region; resources that have almost singlehandedly funded the national growth, but that the government are unwilling to use towards the development of the region.

Document codes also revealed that media reports on the militarisation of the region have played a vital role in the decision to create the above documents, hence the decision to look at a range of newspaper reports on the events in the Niger Delta region. All of these efforts through documents, by the indigenous organisations and the government, have however proved futile, resulting in the continuous violent conflicts in the region and consequently militarisation, hence the need to scrutinise these documents looking at whether they have been successful in reflecting indigenous peoples' needs and struggles. Whilst one appreciates such reports that have documented indigenous struggles over time in the Niger Delta region, with the supposed aim of promoting their rights and attaining justice, there appears to be a gap in these records and academia of indigenous input into such issues that threaten their existence. This is with regard to their creative history, intent and purposes, as they have through the years failed to achieved the intention behind their creation. This analysis from the documents support the interview codes in answering the research question regarding the social and legal motivation of the Nigerian government's decision to militarise the Niger Delta region. From these analyses a unified theory answering the research question is presented in Chapter five, from which the research's ultimate aim of creating actionable-based policy recommendations geared towards the protection of indigenous peoples in the Niger Delta region against militarisation was achieved.

As with the interview codes in Chapter Three, factors (emergent categories) from the relational statements appeared to have overlapped in the document analysis findings. However, as with Chapter Three, to provide some level of structure necessary in underlying the problem areas, emergent categories were analysed in a contextualized manner identifying the motivations of militarisation in the Niger Delta region, following the constant comparison process, as

[19] K S A Ebeku, 'Oil, Niger Delta and the New Development Initiative: Some reflections from Socio-Legal Perspective' (2007) 19(1) Sri Lanka Journal of International Law 1, 10.

endorsed by Charmaz's constructivist grounded theory method. As with the interview codes, in this chapter, each titled emergent category that discussed the relational statements developed is cross-referenced to identify issues and overlaps. The emergent categories/factors analysed constitutes a combination of all relational statements developed for the documents codes. Additionally, the constant factor of 'violent conflicts' which developed from the interviews' findings and observations is cross-referenced. This is because violent conflict has through the analysis of documents also appeared to be the resulting effect of document's failures. The document codes, as mentioned above, is provided as a means to support the interview codes in explaining the social and legal motivations of the Nigerian government's decision to militarise the Niger Delta region. Motivation of militarisation of the region as uncovered from the documents codes have been contextualized into the three issues below;

- Recognizing and understanding underlying issues in the Niger Delta region,
- Indigenous ethnic communities divide and conflicting interests, and
- International image: 'Indigenous peoples as puppets in the circus called Nigeria'.

FIRST FACTOR

RECOGNIZING AND UNDERSTANDING UNDERLYING ISSUES IN THE NIGER DELTA REGION

Document codes revealed that the ill-treatment of indigenous peoples in the Niger Delta has been in practice since before the 1960s. Neglect and need for special attention was first acknowledged in the Willink Report 1957 (see Relational Statement Two). [20] There are deeper trends entrenched in indigenous issues in the Niger Delta region as understood from the interview codes in Chapter Three. Documents codes further revealed that all parties involved fail to pay attention to these deeper trends. What they are concerned with is business as usual, paying no attention to the effects all these trends are having on indigenous peoples in the region.[21] The focus has been on the lucrative economy behind violence in the region, as noted in relational statement eight developed from interview codes in Chapter Three, which see the Nigerian government and international oil companies benefiting from the over militarisation of the Niger Delta region. The need for the Nigerian government to cease from this

[20] A Tareri, 'A Rights Based Approach to Indigenous Minorities: Focus on the Urhobo and Ogoni Peoples of the Niger Delta' in F Emiri and G Deinduomo (eds), *Law and Petroleum Industry in Nigeria: Essays in the Honour of Justice Kate Abiri* (Malthouse Press Limited 2009) 275, 277.
[21] Newsom (n14) 1.

militarisation of the Niger Delta region cannot be overemphasized. This act is the first step in dozens of attempted approaches and would lead effectively towards the legal protection of the indigenous peoples living in the region.

Documents codes revealed evidence of the lack of implementation of government documents. Research into the Niger Delta region and document analysis also revealed that the Niger Delta region as a whole is not short of policies and recommendations geared towards enforcing development in the region and the promotion of peace and security (see Relational Statement Three). The problem is that all of these policies and recommendations are shelved after creation, according to Abidde: 'not a single government administration followed up on the recommendations of the commission or agency they had set up.'[22] Furthermore, according to Charles Alabo Harris, the president of the Ijaw National Congress (IYC):

> There is nothing about the fundamental issues in the Niger Delta that has not been previously captured from the Willink through to the Ogomudia, Ledum Mitee Technical Committee reports and last constitutional conference. What is missing and has always been missing is the political will to implement.[23]

Instead of the initiation of fresh dialogue with Pan-Niger Delta Forum (PANDEF), a socio-political group in the Niger Delta, Charles Alabo Harris, has urged the federal government to implement past reports on the Niger Delta.[24] Implementation of reports will undoubtedly go a long way towards the attainment of security, peace and development in the region,[25] and consequently put an end to the illegal act of militarization. There however remains a question of whether these documents in their creative intents will sufficiently translate into indigenous peoples' struggles in the region. This is because findings from the document and interview codes evidenced a separation within the indigenous peoples themselves, following conflicting demands and reports.

---

[22] S O Abidde, *Nigeria's Niger Delta: Militancy, Amnesty, and the Postamnesty Environment* (Lexington Books 2017) 160.
[23] S Oluwalana and O Akenzuwa, 'Implement Past Reports on Niger Delta, INC tells Government' *Guardian* (Nigeria, 7 November 2016).
[24] Ibid.
[25] N F Chilee, 'Non-Implementation of Report: The Case for Niger Delta Technical Committee Report' *The Nigerian Voice* (Nigeria, 26 August 2009).

In November of 2016, under the aegis of PANDEF, a 16 conditions-based proposal was submitted to the federal government of Nigeria, in a stakeholders meeting led by Chief Edwin Clark and Chief Alfred Diette Spiff, ensuring its application would promote peace in the region. This was done in the midst of dozens of reports already left unimplemented. Included in the 16 conditions are;

- The effect of increased military presence in the region which has been the invasion of communities, displacements of persons, harassments and other forms of human rights abuses.
- Tensions over the fate of the Niger Delta Amnesty Program.
- Law and Justice.
- The clean-up of Ogoniland.
- Inclusive participation in the oil industry and ownership of oil blocs.
- Fiscal Federalism.[26]

The above provisions are no different from those which have been proposed by the peoples since the 1990s, from the time of the widely publicised Ogoni Bill of Rights (see Relational Statement Three). In validating the fact that the different petitions are not fundamentally different from one another, a point of justification for this decision, could be different communities' decisions to provide documents with their specific needs (see Relational Statement Three). What the indigenous peoples are failing to acknowledge is the strength in numbers, and the vision that one well thought out and presented document with all the needs of the indigenous peoples in the Niger Delta may be the answer to decades of struggle. Furthermore, what the repeat of demands means is that the government for decades, since the 1990s, has continually left issues addressed, hence causing the violent conflicts in the region which remains unattended to, hence militarisation. The Nigerian government's nonchalant stance to the peoples' plight is one that is, if put kindly, disappointing.

Document codes revealed that there have been various reports and petitions documenting different demands of different ethnic groups in the Niger Delta region (see Relational Statement Two). In a bid to correlate indigenous demand in the Niger Delta region and 'supposedly' solve the problems in the region, and protect the Nigerian economy from collapse, a committee was

[26] T Soniyi, 'Niger Delta Gives Buhari 16 Conditions for Peace' *This Day* (Nigeria, 2 November 2016).

constituted by the Nigerian government to collate and review existing reports and recommendations, subsequently called the Report of the Technical Committee in the Niger Delta 2008.[27] This correlated report and its recommendations to date have only been partially implemented, with the introduction of the highly controversial Amnesty program in 2009,[28] which the current government headed by a Northerner, threatens to halt at will. With every reported violent conflict or unrest in the region, payments are halted, the violent conflicts effectively trigger the militarisation of the region as established in Chapter Three (see Relational Statement One).

The Amnesty program is poorly conceived and implemented, due to many unintended negative consequences arising from policy implementation.[29] The overall effectiveness of the Amnesty program, as observed from the analysis of documents, is being overshadowed by the violations of the indigenous peoples' rights, oppression and discrimination, all of which the peoples have had to suffer at the hands of Nigeria's military officials. In the Committee's 2008 review, some overreaching themes identified were:

> Governance, derivation, violence and insecurity, laws affecting the region, environment issues, fiscal federalism, land ownership and control of resources, amongst others. Issues of the root causes of insurgency, environmental pollution, demands for some control of resources on indigenous lands, poverty and unemployment, however remain unaddressed.[30]

Governance without question, has been one of the causes of most conflicts in the African region as a whole.[31] Nigeria is not a stranger to all of these facts, and should let them guide its choices when dealing with issues in the Niger Delta region. The political structure of Nigeria is not geared in favour of the indigenous peoples in the Niger Delta region. Further revealed from the document codes is the fact that even in the presence of these reports and recommendations there is no evidence that the Nigerian government understands the problems in the region or is properly informed to this end (see Relational Statement Three).

---

[27] International Crisis Group, 'Curbing Violence in Nigeria (III): Revisiting the Niger Delta' 29 September 2015 Report Number 231 https://www.crisisgroup.org/africa/west-africa/nigeria/curbing-violence-nigeria-iii-revisiting-niger-delta accessed 17 September 2017.

[28] See generally C I Ezeocha, 'Consequences of the Niger Delta Amnesty Program, Implementation on Nigeria's Upstream Petroleum Industry' 2016 Walden Dissertations and Doctoral Studies 1 http://scholarworks.waldenu.edu/dissertations/3158/ accessed 17 September 2017.

[29] Ibid.

[30] Ezeocha (n28).

[31] Abidde (n22) 70.

The Committee's 2008 report identified governance as being at the heart of the problems.[32] The practice of democracy is non-evident in the Niger Delta region, and if I may say in Nigeria as a whole with regard to the government's treatment of its peoples. What a democratic government would mean for the people of the Niger Delta region is public participation, enabling policies to tally with the peoples' needs, something that is obviously missing in the region. Therefore, this research thesis theory which expressed indigenous peoples' accounts and expressions from which actionable-based policy recommendations were created is both an original contribution to knowledge and something that if applied by the Nigerian government bring about change for the Niger Delta region. According to Newsom:

> The effects of democracy in the Niger Delta region is collapsing more comprehensively than anywhere else in Nigeria... too often Niger Delta communities see themselves as having little influence over autocratic governments.[33]

Furthermore, Ezeocha asserted:

> The Petroleum Industry Bill which, in its own right, is meant to improve governance within the petroleum industry in Nigeria by creating special funds for indigenous resource rich communities, and highly effective to the Niger Delta region, has been available in the federal parliament since the year 2009, but remains unimplemented.[34]

This highlights once again, as observed above, the failure of implementation by the Nigerian government. This research stands on the assertion that this continuous failure to implement laws, policies, and recommendations for the benefit of the indigenous peoples living in the region, is boosted by the fact that the peoples are not consulted throughout the creative and development process of the documents. Bringing to light this scenario, interview and document codes revealed that where indigenous needs do not match proposed actions of tackling their struggles, conflict through violent protest becomes the answer for the people. Thus, an original contribution to both academia and the general wellbeing of the indigenous peoples living in the region is this research's approach to through indigenous peoples' experiences develop a theoretical explanation of the motivation behind the government's decision to militarise the

[32] Newsom (n14) 5.
[33] Newsom (n14) 10 and 13.
[34] Ezeocha (n28).

Niger Delta region, evidencing a high level of consultation. This approach as noted in Chapter Two is championed by this research's transformative framework.

The attached environmental detriment of the Niger Delta region's resource wealth is not unfamiliar as discussed in Chapter One, so notorious is it that it is often a topic of international communities. Although the focus of this research is not on the environmental degradation in the region, it is important to draw reference to it as this issue has been one that has produced numerous environmental policies, all of which are yet to be implemented, but has also managed to raise substantial recognition around the world. These policies have spanned decades, struggles for which have led to acts of serious human rights violations, murders and displacements, amongst others. One of such policies was the UNEP Environmental Assessment of Ogoniland 2011, which to date is yet to be implemented, evidencing, once again, the issues surrounding implementation of policies in the region, and a government that is unwilling, not unable, to allow policies it have created to protect its own peoples. It is, however, important to point out that the protection of the environment from the time of its implementation has moved from being an insignificant issue to one that is placed on the political agenda of the nation, following the growing awareness of rights on the part of indigenous groups in the region.[35]

In all of the above it appears that the underlying issues of indigenous peoples has been lost in the array of surrounding issues, thus militarisation is motivated by this lack of understanding. Drawing attention to the failures of these documents affecting the rights of the indigenous peoples in the Niger Delta region will bring some sort of effect for the benefit of the peoples. The indigenous peoples past attempts to bring these issues to light have successfully been shut down both by the government and international oil companies, who by working hand in hand have successfully boosted their financial profits in the region. This is so whilst the region itself wallows in poverty, hence the formation of different groups attempting to bring their struggles to the attention of not just the nation but international communities. These attempts have unfortunately escalated to violent conflicts between the communities and the government and between indigenous communities themselves. The government will stop at nothing to ensure that its pockets are continually lined with the benefits of the resources from indigenous lands,

[35] F Allen, *Implementation of Oil Related Environmental Policies in Nigeria: Government Inertia and Conflict in the Niger Delta* (Cambridge Scholars Publishing 2012) 91.

so pay no heed to the legal and social ramifications that their actions through the act of militarisation have on the indigenous peoples living in the Niger Delta region.

SECOND FACTOR

INDIGENOUS ETHNIC COMMUNITIES' DIVIDE AND CONFLICTING INTERESTS

According to Okonta and Douglas: 'to keep Nigeria one is a task that must be done.'[36] In the discussions of the struggles faced by indigenous peoples in the Niger Delta region, issues of self-determination which see the Nigerian government's claims of secessionist fears, as pointed out in Chapter One, is one concern for the government. Another issue of division as uncovered from the document codes, arose within the indigenous communities themselves; past and present actions have revealed this division within the communities (see Relational Statements One and Two). Document codes revealed division issues from conflicting media reports and conflicting demands being expressed by the indigenous peoples in the Niger Delta region themselves.

Etemike stresses: 'it is safe to say that the curse of the oil economy has successfully disinherited and dislocated the peoples in the Niger Delta region.'[37] In some areas in the region, the problem is of different and incompatible conceptions of rights being used in the furtherance of different and incompatible interests and goals.[38] The massive patronage economy that safeguards the dominance of the political elites outside of the Niger Delta region, as noted in Chapter Three, does not help matters.[39] The divide between those within the region is what raises more concerns. This is because the legal protection of indigenous peoples in the Niger Delta region, which is the ultimate objective of this research thesis, is not intended to be attainable as an individual community based policy framework, but as a collective proposal for the recognition of a group of people within a region.

---

[36] I Okonta and O Douglas, *Where Vultures Feast* (Verso 2003) 21.
[37] L Etemike, 'The Struggle Against Exploitation and Marginalization: A Historical Survey of and Implications of the Uprisings and Protests in Nigeria's Niger Delta' in V Ojakorotu (ed) *Contending Issues in the Niger DeltaCrisis of Nigeria* (JAPSS Press, 2009) 151, 152.
[38] O Owen, 'The Contested Rights of the Niger Delta' (2008) 3(16) Environmental and Planning Law Review 63, 64-65.
[39] Newsom (n14) 5.

Document codes revealed that there is a need for all actors involved in the Niger Delta struggles to combine levers and use each other's momentum, grounding this strategy in a deeper analysis of the region's problems and creating a unified theory of change.[40] For example, after the 16 conditions proposal was submitted to the federal government of Nigeria in 2016, there were contrasting reports as to whether PANDEF truly represents the voice of the indigenous peoples in the Niger Delta region (see relational statement one). Different groups issued various press releases stating their involvement or lack thereof in the creation of the document. This was despite the fact that Chief Edwin Clark purported that what was being presented:

> Represented the mandate of the whole Niger Delta people, including the militants and other agitators… authority was given to us to act on behalf of the Niger Delta Avengers.[41]

Further contradicting the above assertion, there are reports of alternate, and copy-cat groups being formed with different interests. These groups from this same region are now raising concerns that their interests are not being protected in negotiations made by organisations such as PANDEF.[42] Spokesman for the Gbaramatu Kingdom, Chief Godspower Gbenakama, following the above development, however pointed out that disagreements in such issues are not unusual as the region is huge, and representation of communities by the peoples is always under discussion.[43] Following such a comment, and the leadership tussle, it would appear that before one can proceed to assert the negligence of the Nigerian government in issues concerning the indigenous peoples of the Niger Delta region, it is necessary for the people themselves to resolve internal issues. Leadership tussles such as these have contributed to both the presentation and lack thereof of policies and recommendations, and have also in their own right prompted and fuelled violent conflicts and militarisation, as analysed in the interview findings in Chapter Three.[44]

Document codes further revealed that the deeper issue of criminality within the region has somehow, disappointedly, emerged from a decent struggle for peoples' rights, by people whose

---

[40] Newsom (n14) 1.
[41] (n26).
[42] Ibid.
[43] I Wakili, D Adugbo and V Edozie, 'Buhari, Niger Delta Leaders Meet Today' *Daily Trust* (Nigeria, 1 November 2016).
[44] 'Oil Divides: Rebuilding Peace in the Niger Delta' (October 2015) http://www.stakeholderdemocracy.org/oil-divides-rebuilding-peace-in-the-niger-delta/ accessed 17 September 2017.

main interest is to fraudulently enrich themselves.[45] These have in turn resulted in conflicts between communities themselves. The above assertion was also observed in the interview codes in Chapter Three (see Relational Statement Seven, from Chapter Three). Violent conflicts, which was analysed in Chapter Three, were further discovered here to have only led to the continuous militarisation of the Niger Delta region. Ethnic conflict is closely tied to the core category of violent conflicts. Differences in the Warri Southwest area of Delta state specifically saw the Itsekiri communities reportedly framing some of their claims to local political dominance as the right to maintain their traditional authorities in areas where they claim to be historical indigenes, whilst in contrast the neighbouring Ijaw communities reportedly frame their claims to access these centres of power in the different conception of rights used in the 1999 Constitution.[46] All ethnic conflicts have only disappointedly in their own right promoted the militarisation of the Niger Delta region, which has provided the government with more valid reasons to make the military presence in the region permanent.

Following the above divide between indigenous communities themselves with regard to the claims and struggles (see Relational Statements One and Two), the leader of the Niger Delta Peoples Volunteer Force (NDPVF), Dokubo-Asari, in commenting on the visit of the current Vice President, Professor Yemi Osibanjo, stated:

> I do not believe that there is conflict between the Niger Delta as a whole and the Nigerian state, but rather, it is between the Ijaws and the Nigerian state. Let us not put it with the Niger Delta because when Ijaws fight and die, a lot of these individuals come and claim benefits. When benefits come they come out. When Ijaws are fighting and dying, they sit in their houses and call us all sorts of names. We have never gone to their territory to look for their problem, we are in our land and doing what we think is right for ourselves.[47]

It is understandable to see how comments like these have assisted the Nigerian government in paying no attention to indigenous demands and struggles. Not only does it portray separation within the region interfering with the collective struggles of the peoples, it implies the secessionist fears that the Nigerian government have insisted are threats emanating from indigenous struggles following the issue of self-determination, as discussed in Chapter One. Hence in its own way it plays a role in the continuous militarisation of the Niger Delta region.

---

[45] Etemike (n37) 162.
[46] Owen (n38) 65.
[47] E Amaize, 'Outburst Against Osibanjo: Bini, Itsekiri, Urhobo Leaders Tackle Dokubo-Asari' *Vanguard* (Nigeria, 8 April 2017).

The need for unity amongst the communities and peoples within the region cannot be overemphasized. A retired army officer asserted: 'need for a concerted and unified effort by all constituents of the region in order to promote the success for socioeconomic emancipation.'[48]

Document codes revealed that the struggles of the Ijaw groups within the Niger Delta region have reflected their requests not to be part of postcolonial Nigeria.[49] Their arguments have focused largely on Ijaw ethnic communities, this is despite the fact that there are other ethnic communities with this region that suffer similar oppression and violations at the hands of the Nigerian military. The Nigerian government is often approached regarding the need to address the Ijaw question, a question which although fundamentally similar to that of the other communities within the region, does not evidence collectiveness from the peoples in the region (see Relational Statements One and Two). These peoples must understand at this point that indigenous struggles are not limited to one ethnic group or community. They have collectively suffered in the hands of the government and until there is an understanding within the communities that they are one people and cease from discrimination within themselves, violation of their rights by the Nigerian government through the over militarisation of their region will unfortunately continue and be justified.

Document codes revealed further evidence of a divide in the conflicting accounts by peoples of the region through different platforms, like the media, as a result of personal benefits received or intimidation (see Relational Statement One). Owens argued:

> Youth activist groups in support of regional social justice and the environmental agenda have been supplanted by a multicity of other self-appointed champions who use rights claims in an extremely instrumental and opportunist manner, essentially as legitimisation for aggressive armed entrepreneurship.[50]

For example, instances where private individuals receive perks from oil companies. Furthermore, in January 2017 a British court agreed with Shell that a case affecting more than 40,000 people in two communities in the Niger Delta, i.e. the Ogale and Bille communities,

[48] Ibid.
[49] Abidde (n22) 163.
[50] Owen (n38) 65.

should be heard by local courts in Nigeria, with arguments from the villagers that they would not receive a fair hearing in Nigeria.[51] After reports of this Igo Weli, a spokesman for Shell and a Nigerian, reportedly told the BBC: 'it was a myth that the communities could not get justice in their home country…'[52] This is important to note because the unfairness geared towards indigenous peoples in the Niger Delta region is not news to anyone, hence for a citizen of Nigeria to make such comments regarding the Niger Delta region it shows that the political structure of the country has ensured that the indigenous peoples actions are reduced to merely criminal acts. Documents codes revealed that litigation as an avenue for resolving compensation claims for oil and gas operations is fraught with many problems.[53] Personal gains continually supersede good and rational government, which often places the indigenous peoples of the Niger Delta at the lower end of the spectrum It has become more difficult to separate the opportunists from those with legitimate claims. Self-styled leaders are accused of sheer failure and greed in past positions of public trust in the region.[54] According to Beverly Longid:

> There is need for indigenous peoples to build up their organisations from the grassroots, as that would be the source of their strength; they cannot and should not rely solely on the UN to provide solutions to their struggles for their rights, as the UN is essentially a place where States consolidate themselves.[55]

From leadership differences, to conflicting reports, to representation of the similar issues in different documents, the struggles of the indigenous peoples in the Niger Delta region in terms of collectively being geared for demanding rights are deeply flawed (see Relational Statements One, Two and Three). All of the above divide and conflicting interests have resulted in uncertainty surrounding the image of the Niger Delta region as a whole, which not only affects their attainments of rights, but hinders actions to protect them against militarisation in the region. The lack of clarity provides the government with more excuses, citing the need to curb violent conflicts in ethnic communities, as seen in the case of the Warri crisis, whose cause to

---

[51] 'Niger Delta Villagers Lose UK Court Bid to Sue Shell Over Pollution' *BBC* (United Kingdom, January 2016) http://www.bbc.co.uk/news/world-africa-38759643 accessed 17 September 2017 .

[52] Ibid.

[53] D K Derri, 'Litigation Problems in Compensation Claims for Oil and Gas Operations in Nigeria' in F Emiri and G Deinduomo (eds), *Law and Petroleum Industry in Nigeria: Essays in the Honour of Justice Kate Abiri* (Malthouse Press Limited 2009) 11, 34.

[54] E Yafugborhi, 'Nigeria: How not to Incite Oil Communities' *Vanguard* (Nigeria, 13 April 2017).

[55] D Ayroso, 'First UN Conference on Indigenous Peoples Mum on Self-determination, State Violence' (29 September 2014) http://www.democraciaycooperacion.net/espacio-colaborativo/asia-pacific/your-documents-attached-to-the/article/first-un-conference-on-indigenous accessed 17 September 2017.

date is published fleetingly as ethnic differences between the Itsekiris and the Ijaws, rather than the political, legal and social manipulation of the Nigerian government. Divides and conflicting interests of the indigenous peoples in the Niger Delta region is a dangerous tool in the hands of the Nigerian government that has and will continue to motivate the act of militarisation in the Niger Delta region.

All of the above analyses of the documents' findings successfully guides readers into this research thesis's ultimate objective which proposes actionable-based policy recommendations geared towards the legal protection of the indigenous peoples living in the Niger Delta region. These issues revealed through the analysis of document data, are those that would normally be ignored as being too casual. They have however been revealed to affect the overall actions and inactions, and their attached consequences that have through the years contributed to indigenous struggles that have in turn fuelled militarisation in the region.

THIRD FACTOR

INTERNATIONAL IMAGE: 'INDIGENOUS PEOPLES AS PUPPETS IN THE CIRCUS CALLED NIGERIA'

Document codes revealed media reports that saw the Nigerian government, despite the conditions of indigenous peoples living in the region, portraying their alleged support for human rights, and in some cases indigenous rights. These rights if supported should protect the indigenous peoples from the illegal act of militarisation which has seen them being victims of oppression, repression, discrimination, and in the worse cases murder, all at the hands of military officials deployed to the region by the Nigerian government. This is so, despite the successful build-up of relationships with international organizations and communities, that some indigenous organizations in the Niger Delta region have achieved during the years of struggle and militarisation of the region. It is safe then to conclude that the Nigerian government's portrayal is tied to how they are viewed by the international communities, which in turn would influence international trade deals – hence economic considerations once again prevail over the rights of the country's own peoples.

According to Newsom: 'through all the surface chaos and cease-fires… there has been no real change in what drives violence across the Niger Delta region.'[56] In terms of the indigenous peoples and the international communities, MOSOP's ability to bypass the State and connect with global audiences contributes to the process of internationalizing the crisis in the Niger Delta region.[57] The presentation of the Ogoni Bill of Rights 1990 to the Nigerian government demands, amongst others;

- The right to control and use a fair proportion of Ogoni economic resources for Ogoni development.
- The right to protect the Ogoni environment from further degradation.[58]

The rights above, following the clever publicity tactics, such as Internet campaigns, international conferences, protests and media events, of MOSOP under Ken Saro-Wiwa, internationalized the Ogoni struggle.[59] In gaining international attention, MOSOP reportedly:

> Employed languages that would attract the international community's attention. It employed the language of rights and built the image of the Nigerian state and shell as violators of human rights.[60]

From the above, support for the Ogoni people arose, which ended following the military regime in Nigeria and the murder of Ken Saro-Wiwa (the Ogoni Nine), taking the Ogoni people back to where they started, struggling for the recognition of their rights, and protesting against the militarisation of their region, etc. These events, however, succeeded in placing Nigeria under the radar of the international communities. Nigeria was, as a result of the execution of the Ogoni Nine, suspended from the Commonwealth and given two years to comply with the terms of the Harare Declaration.[61] Bans were placed on air links, financial assets of the then Head of State were frozen, amongst others.[62] Nigeria's determination to portray a spotless image is understood following these events. As a country blindly focused on economic growth, such reactions by the international communities would put a strain on Nigeria's goals.

---

[56] Newsom (n14) 4.
[57] V Ojakorotu, 'The Internationalization of Oil Violence in the Niger Delta of Nigeria' (2008) 7(1) Turkish Journal of International Relations 92, 113.
[58] The Ogoni Bill of Rights 1990.
[59] Ojakorotu 2008 (n57) 98.
[60] Ojakorotu 2008 (n57) 99.
[61] Ojakorotu 2008 (n57) 104.
[62] Ibid.

Document codes revealed that as a result of fears triggered from the actions taken by the international communities, as highlighted above, Nigeria cultivated the habit of reminding the United States and the international communities of the role the country plays in shouldering peacekeeping in Africa, whilst treating issues in the Niger Delta region as: 'a short-term risk to be managed' (see Relational Statement One).[63] For example, Nigeria is currently in talks about the furtherance of development projects in the region.[64] Whilst these projects are welcomed, addressing core concerns, such as the legal and social motivators of militarisation in the region, is necessary.

The Nigerian government continues to mask actual events with varying reports, as supported by independent Nigerian media houses who naturally would be expected to have the complete facts on the conditions of the Niger Delta region, in a bid to be seen in a particular light (see Relational Statement One). What is more, not only are they building their image based on indigenous struggles, they have succeeded in painting a criminalized picture of peoples whose sufferings are imposed by the government's military officials through the act of militarisation. Groups, such as the Movement for the Emancipation of the Niger Delta (MEND), have been reported to function on loose networks, with claims that whilst some within the group possess legitimate grievances and goals, they have also engaged in criminal activities that have led to the ongoing conflict in the region (see Relational Statement One).[65] These acts, although never justified, are the mechanisms that these peoples believe will best protect their interests and existence, following the illegal acts carried out by the Nigerian military, whose acts are not within the statutory requirements and have never been sanctioned or scrutinized by the Nigerian government.

The international communities have gone on to accept Nigeria's claims in the face of sometimes contrasting evidence from the media and indigenous cries from the Niger Delta region. This means one cannot blame them for not understanding the actual plights of the indigenous peoples living in the Niger Delta region. The US Consul General, John Bray, after

[63] Newsom (n14) 6 and 16.
[64] Anonymous, 'FG, Seeks Stakeholders Collaboration on Niger Delta Development' *Vanguard* (Nigeria, 30 May 2017).
[65] K Campbell, 'Bringing Peace to the Niger Delta' (1 June 2008 United States Institute of Peace) https://www.usip.org/publications/2008/06/bringing-peace-niger-delta accessed 17 September 2017.

his visit to the Gbaramatu Kingdom in the Niger Delta region, contrary to previous reports of serious civil unrest and violence, tagged the kingdom as 'very peaceful'.[66] One then is left to ask why the Military remains in the region, with check-points at every mile, harassing and oppressing the people. John Bray reported that there was no need for the heavy military presence in the Gbaramatu Kingdom.[67] Anyone who has been to the Niger Delta is aware of the manipulations of political leaders and elders who live off and profit from conflicts and violence on one hand, and on the other intellectuals who are unwilling to help rectify the situation because of the fear of the Nigerian government (see discussions of relational statements from interview codes in Chapter Three).[68]

According to Abidde: 'in the Niger Delta region coercion and intimidation has been a tool for cooperation and silence for years.'[69] Ojakorotu and Olawale, notes:

> The continuous crisis, in the form of violent conflicts and militarization, in the region portends grave danger not only in Nigeria, but for the world as a whole, as the escalation of the crisis would lead to loss in human terms, and in turn create a holocaust.[70]

Documents codes revealed issues of security and the effect that the violent conflicts in the Niger Delta region has had on oil prices around the world has managed to catch the international community's attention. Ending these issues in the region would undoubtedly mean economic benefits for the international community. Following Nigeria's and the Niger Delta's oil wealth, the international community has to understand the role that social and legal issues tied to the militarisation of the Niger Delta region, which have become a contrivance of the peoples' human and indigenous rights, has to play in achieving overall economic security for the world. There is a need for Nigeria, in spite of all the accompanying issues ranging from recognition of rights to the content of official and non-official reports, to be sincere in its desire to tackle the struggles of indigenous peoples in the Niger Delta region.[71] Their sincerity would go a long way towards the actualization of this research thesis's ultimate objective which

---

[66] M Omonigho, 'Gbaramatu is Peaceful – US Consul General Declares' *Daily Post* (Nigeria, 1 February 2017).
[67] Ibid.
[68] Abidde (n22) 180.
[69] Ibid.
[70] V Ojakorotu and O Olawale, 'Understanding the Niger Delta Conflict: Matters Arising' in V Ojakorotu (ed), *Contending Issues in the Niger DeltaCrisis of Nigeria* (JAPSS Press 2009) 1, 11.
[71] Etemike (n37) 163.

proposed actionable-based policy recommendations geared towards the legal protection of the indigenous peoples living in the Niger Delta region against militarisation.

The personal interest, in the light of national economic development, by Nigeria on how she is viewed by the international community, is revealed to be camouflage for the actual happenings in the Niger Delta region. So severe is this camouflage that they have in most cases successfully collaborated with the international community on the presentation of development proposals for the region; projects that they are aware will be swamped in these social and legal issues that have been identified, resulting in them never actually seeing the light of day. According to Ojakorotu:

> The success of gaining the attention of the international community has consequently resulted in the over militarization of the Niger Delta region under the guise of security, thus inflicting more violence on the Niger Delta people.[72]

Hence the need for the international community and Nigeria, instead of focusing on the support of development projects which never see the light of day, to promote the rights based system in Nigeria and assist in building up the poor democratic structure in the country. Ranging from acts of Boko Haram insurgency to the struggles of the Biafra people and the Niger Delta people, Nigeria is currently one of the most unsecured territories in the world. In all of this there is now a need for a close examination of government activities in indigenous communities; their activities through the military officials is not currently subject to any scrutiny.

CONCLUSION

The Nigerian government's decision to militarise the Niger Delta region is undoubtedly detrimental to the indigenous peoples' functions in their communities and society at large. This act has been successful in negatively influencing indigenous activities around the region, which has seen violent conflicts as a direct outcome of all indigenous struggles and demands in the region. This research thesis document codes have revealed issues tied to the discharge of government constitutional duties to its people, indigenous peoples' own actions and inactions, and media reports that have in their own way motivated militarisation in the Niger Delta region. This transformative framework research, applying the constructivist grounded theory method,

[72] Ojakorotu 2008 (n57) 115.

successfully uncovered meanings, creation processes and effects within each document that was analysed. All of the above supports the presentation of the theory in Chapter Five. The above analyses succeeded in unveiling patterns that assisted in presenting the theory that essentially describes, with the combination of the interview codes, the social and legal motivations of the Nigerian government's decision to militarise the Niger Delta region. All of which led to the proposal of actionable-based policy recommendations geared towards the legal protection of the indigenous peoples living in the region against militarisation.

CHAPTER FIVE - CONCLUSION

SOCIAL AND LEGAL MOTIVATIONS OF MILITARISATION: FROM A CONSTRUCTIVIST GROUNDED THEORY TO ACTIONABLE-BASED POLICY RECOMMENDATIONS

INTRODUCTION

This chapter, following the emergent categories, discussions of relational statements, and analyses in Chapters Three and Four of this research thesis, presents the constructivist grounded theory explaining the social and legal motivation of the Nigerian government's decision to militarise the Niger Delta region. The generation of a theory is the end product of the grounded theory research.[1] Following the presentation of the theory however, this research delves further to propose actionable-based policy recommendations geared towards the legal protection of the indigenous peoples of the Niger Delta against militarisation. These policy recommendations were created in a bid to strengthen the problem-solving nature of the theory. Furthermore, the intent of this research thesis in advocating for a real change in the world has meant that these policy recommendations had to be created.

ACADEMIC MAP TO CREATING THE THEORY

This theory presents a unified explanation of the social and legal actions,[2] processes and accounts that have motivated militarisation in the Niger Delta region, bringing together the codes, relational statements, and emergent categories from the interviews and documents data. According to Charmaz:

> Although more researchers claim to have used grounded theory methods than profess to have constructed substantive or formal theories, most hold some sort of conception of theory. If you peruse articles whose authors claim allegiance to grounded theory, you might identify such varied assumptions that theory means: 1) an empirical generalization, 2) a category or core variable, 3) a predisposition, 4) an explication of a process, 5) a relationship between variable, 6) an explanation, 7) an abstract understanding, and/or 8) a description.[3]

[1] M Birks and J Mills, *Grounded Theory: A Practical Guide* (2nd Edition, Sage Publications 2015) 115.
[2] J W Creswell, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (3rd Edition, Sage Publications 2013) 83.
[3] K Charmaz, *Constructing Grounded Theory* (2nd Edition, Sage Publications 2014) 241.

Theories thus can be presented as discussions/descriptions and/or models. A model, which is essentially an abstract representation of the larger picture,[4] is created, detailing the complex concepts that through the simultaneous social and legal actions that have motivated the Nigerian government's decision to militarise the Niger Delta region. Important to note here is that this presentation of the theory is my interpretation as the researcher following the analyses of the indigenous peoples' accounts and experiences. Following the model presented in Figure 1, a discussion/description of the theory detailing the large picture of the model is presented. Creswell and Poth asserts:

> The presentation of the theory can have a general reporting structure, which includes an introduction to familiarise the reader with the action that the theory is intended to explain, research procedures to provide the rationale for grounded theory, and details about data collection and analysis. The description of the theory should involve categories from open coding (in this research's case initial coding), conditions around the core phenomenon from axial coding, and a proposition describing interrelationships of categories…[5]

Presenting this theory in a discussion/descriptive format did not strip the theory of having the exploratory, predictive and problem solving values necessary for all grounded theories to have.[6] Furthermore, in support of this, Birks and Mills note that grounded theory is: 'in fact a story, whether explicitly stated or not.'[7] They further noted: 'a balancing is required here ensuring that a researcher's theory is translated into a storyline that remains both digestible for the reader and reflective of the analysis.'[8] Strauss and Corbin define story as: 'a descriptive narrative about the central phenomenon of the study.'[9] It is from the above that Birks and Mills suggest that grounded theory may take the form of a storyline, explicating the relationships between concepts that make up the theory. According to them: 'storyline is the explanation of your theory, which in turn provides an explanation of the phenomenon under study.'[10] The

---

[4] Birks and Mills (n1) 135.
[5] J W Creswell and C N Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (4th Edition, Sage Publications 2018) 88.
[6] See generally B G Glaser and J Holton, 'Remodelling Grounded Theory' (2004) 5(2) Qualitative Social Research 1.
[7] Birks and Mills (n1) 113.
[8] Birks and Mills (n2) 115.
[9] Birks and Mills (n1) 114.
[10] Ibid.

theory created in this research was thus was successful in reaching a high level of conceptual abstraction that moves beyond the level of description, achieving theoretical integrity.[11]

Noteworthy is that fact that the founders of grounded theory, Glaser and Strauss, in explaining the process of generating a theory notes: 'generating a theory puts a high emphasis on theory as a process; that is, theory as an ever-developing entity, not as a finished product.'[12] Furthermore, citing the flexible nature of grounded theory, Glaser, one of the founding fathers of grounded theory, accepts the presentation of theories in descriptive formats.[13] In presenting this discussion/descriptive theory, I adopted Carlile and Christensen's three step approach to building theory; the steps are observations, classifications, and defining relationships.[14]

- **Observation and Classification**

  These stages see researchers observing, describing, and classifying the phenomena, which in this research is militarisation, all of which was achieved in Chapter One in the introduction to the research phenomena, and in Chapters Three and Four through the analyses of the categories from axial coding. Observation entails the creation of abstractions that assist in putting together the details necessary to understand the essence and operation of the phenomena.[15] In line with the axial coding and analysis of Chapters Three and Four, Christensen opines: 'categorization simplifies and organizes the world in ways that highlight possible consequential relationships between the phenomena and the outcomes of interest.'[16]

- **Defining Relationships**

  The third and final step involves the exploration of the relationship between the emergent categories from the outcomes of the coding process, hence defining relationships between categories. The theory here then takes a descriptive format by

[11] Birks and Mills (n1) 115.
[12] B Glaser and A Strauss, The Discovery of Grounded Theory: Strategies for Qualitative Research (Aldine Transaction 1967 2012) 32.
[13] Charmaz 2014 (n3) 13.
[14] C M Christensen, 'The Ongoing Process of Building a Theory of Disruption' (2006) 23 The Journal of Product Innovation Management 39, 40-41.
[15] Ibid.
[16] Christensen (n14) 40.

making statements of associations between the emergent categories and the research's phenomenon.[17] This chapter within its theory achieves the last step of defining relationships, which is championed by the one of the founding fathers of the grounded theory method, Glaser, as noted above.

My journey to uncovering the theory from the research findings data was the most demanding process in my grounded theory journey. I discovered the importance of writing and re-writing all grounded theory data. I found that my theory was lost within my analysis chapters. This then required me to return to these chapters, uncoupling links to build the theory, whilst ensuring that the theory was not entirely visible in these chapter, as that would have stripped the theory of its abstract nature. According to Corbin and Strauss:

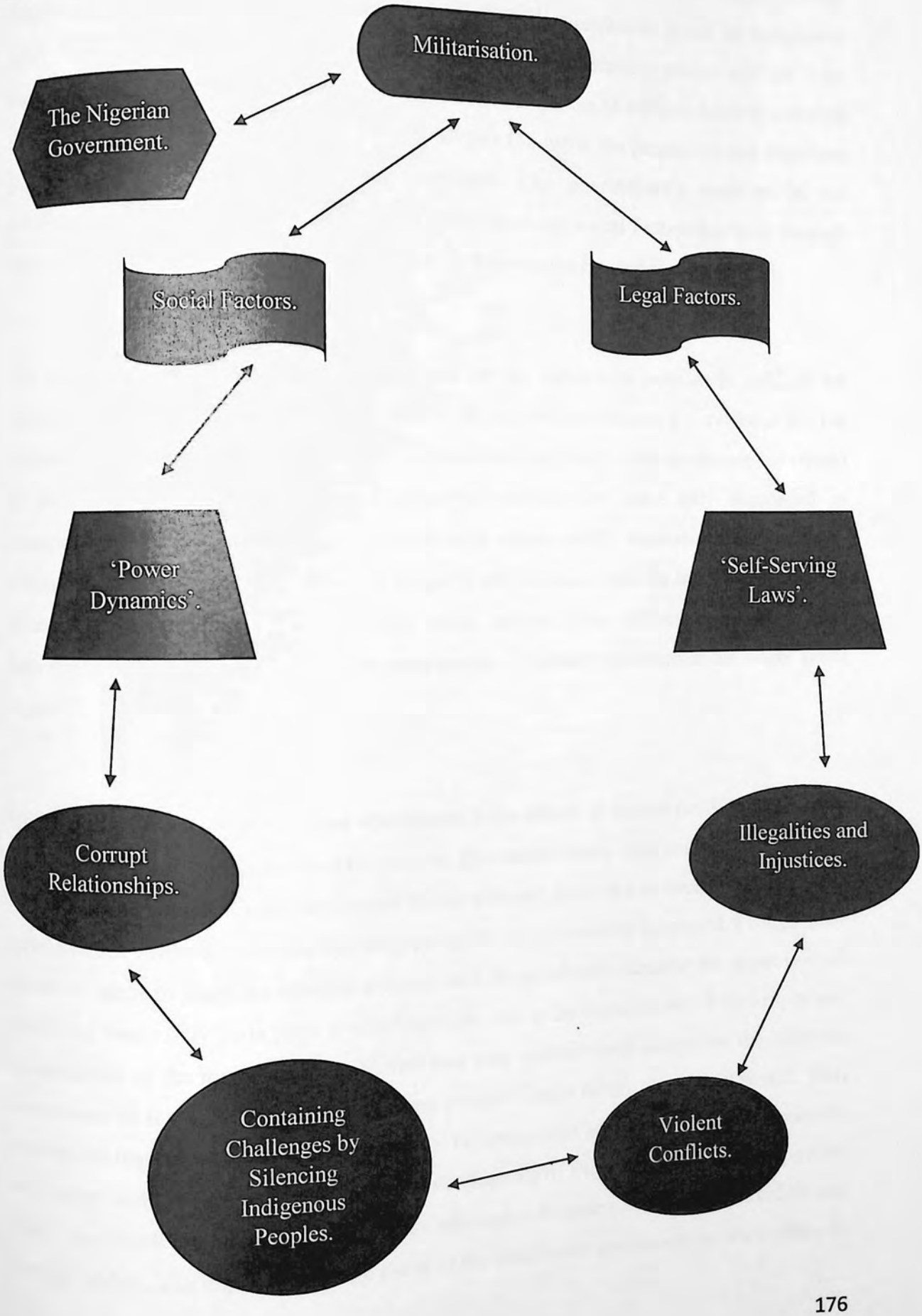
> You may find, however, that despite diligent work, gaps in the theory are made evident through the writing of your storyline. In such cases it is necessary for you to return to the data and possibly even the field in order to sample theoretically for data to complete the theory.[18]

The significance of the theory created below is that it provides a unified indigenous-based expression of the motivations of the Nigerian government's decision to militarise the indigenous peoples in the Niger Delta region. Below is firstly a Model presentation of the theory, followed by the discussion/descriptive presentation. All of the above guides this research thesis into the presentation of the actionable-policy recommendations geared towards the legal protection of the indigenous peoples in the Niger Delta region against militarisation.

[17] P R Carlile, 'The Cycles of Theory Building in Management Research' 3 http://www.hbs.edu/faculty/publication%20files/05-057.pdf accessed 17 September 2017.
[18] Birks and Mills (n1) 116.

THE THEORY MODEL

FIGURE 1



THE THEORY

The militarisation of the indigenous peoples in the Niger Delta region is an act employed over decades by the Nigerian government in a bid to expropriate resources found on indigenous lands without interruption, and bypass consultation whilst fractioning profits attained from these resources. The Nigerian government thus sanctions the use of military force in ensuring that challenges evolving from the indigenous peoples following the illegalities and injustices purported from their narrow bids are contained. This government's sanction in the commendation of militarisation is prompted by both legal and social factors that have through the process of indigenous peoples' experiences, and accounts occurred simultaneously.

The containment of these challenges expressed by the indigenous peoples in light of the struggles they have experienced from living in the region has become a core focus for the Nigerian government. In focusing on ensuring that their illegal and unjust actions are not voiced by the indigenous peoples and other concerned parties, they have only succeeded in emasculating a group of peoples who by their very nature should be protected against such actions. So entrenched is this system of illegality and injustice that the laws of Nigeria are structurally self-serving, thus influencing social actions from all actors involved. The implication of these continues to be the permanence of military presence in the Niger Delta region.

Governments installed in Nigeria use altercations in the station of violent conflicts to promote ancillary benefits to the detriment of the peoples. The inconsistency surrounding the provisions of the 13% derivation fund is as a result of the changed government over the years; these governments' mission to ensure that they prove their functionality expressed through their claims of needs to boost the national economy and disappointedly develop the urban non-oil producing States in Nigeria plays a very important role in the containment of challenges and militarisation of the region. It is established that easy uninterrupted access for the Nigerian government to resources found on indigenous peoples' lands brings about easy wealth. This easy wealth that comes about at the detriment to the indigenous peoples' existence is ironically not evident in the region, and Nigeria as a whole. Majority of Nigerians live below the poverty lines. The wealth conceived from the Niger Delta region is controlled by political cabals and corrupt leaders. The implication of the above is the established conflict-prone atmosphere in

the Niger Delta region between the peoples and the Nigerian government, as hopes for development in the Niger Delta region are rendered vague following the infusion of new governments. Within this atmosphere, oppression and repression thrive following the government's use of military force to manage situations. The reversing effect however of this use of force is the permanence of violent conflicts in the Niger Delta region.

The laws of Nigeria are self-serving, they are structured in ways that bypass illegalities and acts of injustices carried out by the Nigerian government. These illegalities and injustices are birthed through legal instruments of Nigeria such as the 1999 Constitution, the Land Use Act 1978, and the Petroleum Act 1969. Drafted in ways that expose the scale of power relations between those in power positions and those lower in the society, these laws are by their very nature discriminatory. Indigenous peoples in Nigeria are typically discriminated on. They are positioned within these legal instruments and the political structure of the State to lose bids of demands and rights before they are expressed. These legal instruments are prejudiced against these peoples, certifying that these people remain in a cocoon of reoccurring events with no progress in sight. The implications of the government's unaccountability when these illegalities and injustices arise is that the indigenous peoples in the Niger Delta region remain unprotected in power dominated societies. The peoples are therefore compelled to realise protective mechanisms for themselves; protective mechanisms in the systems of militancy and violent conflicts that have dominated the Niger Delta region.

Power dynamics affect the relationships that the indigenous peoples of the Niger Delta region have with the Nigerian government, the judicial system, intervention agencies, media and themselves. The non-existent, violent and uncooperative relationship between the Nigerian government and the indigenous peoples are incited by the powerful influence that the government has over the reports, outcomes, and judgments of these other actors. Technical procedures in the judicial process are orchestrated by the Nigerian government, ensuring that the peoples remain unable to voice their struggles amid injustices committed by the government. These judicial processes and intervention agencies are dominated by corruption; the indigenous peoples thus reject these corrupt relationships. The implication of their rejection is that the Nigerian government's ploys, through acts of intimidation, to ensure that the region is further agitated, with no protections for the indigenous peoples, thus forcing them into

accepting relationships that they would otherwise reject. The groups who cry out against these intimidations are those that have come to form militant groups, some of whom have only been successful in prompting further violence in the region.

These militant groups established to challenge government's illegal actions and injustices developed from the power dynamics of the State, although within themselves have derailed from indigenous struggles, have been successfully labelled as deliberate aggressors. This image of deliberate aggressors has been painted by the Nigerian government with the assistance of Nigerian media houses whose reports of imagined facts have succeeded in worsening issues in the Niger Delta region. Issues are overlooked by the media whose loyalty remains with those in power. The implications of this action span across just reports to negatively influencing reactions to indigenous peoples' reports on their actions and struggles. International bodies, when accurately informed about the struggles of the indigenous peoples in the Niger Delta region come to understand that the region is not, according to the Nigerian government and other actors, a war zone that is crammed with deliberate aggressors.

The indigenous peoples themselves, however, acting within their cultural power dynamics, become entangled in webs of ethnic conflicts and conflicting claims thus exposing their expressions of challenges and struggles to doubts. The need for the indigenous peoples living in the Niger Delta region to speak in one voice cannot be overemphasised. The trail of the peoples' demands is thus flooded with silence from the Nigerian government, failure to implement progressive documents, and outright refusals to amend laws in favour of these peoples. The implications of these peoples' position in the State is thus evidenced in an oppressive dominated social structure spearheaded by the Nigerian government in synchronised compositions with the discriminatory legal structure of the State. Responses to these actions by the indigenous peoples living in the Niger Delta region are in the form of resistance; resistance to the injustices, power dynamics, oppressive social structures and discriminatory legal structures of the State. In meeting this resistance, however, is the Nigerian governments' decision to station military officials in the region; officials who following their discharge of their statutory functions have bypassed best practices through inhumane acts inflicted on the indigenous peoples of the Niger Delta region.

From illegalities to injustices which upholds the Nigerian government military officials' inhumane actions in the region, the understanding of social actions inspired by the legal provisions devised by the government to contain indigenous expressions and accounts of struggles is implicit. Militarisation by the Nigerian government is thus a tactical social action stimulated by the power dynamics of the State and safeguarded by the self-serving laws of the State. To ensure that this problem of militarisation in the Niger Delta region is adequately resolved there is a need for the analysis of the above theory within suggested actionable-policy recommendations; which if adopted by the Nigerian government would mean that the indigenous peoples living in the region are legally protected from the government's decision to militarise their communities.

DISCUSSION OF THE THEORY

The theory presented above represents an original contribution to knowledge. Grounded theory, according to Corbin and Strauss; 'allows for the development of theoretical explanations that reach beyond the known, offering new insights into a variety of experiences and phenomena.'[19] Motivations in this research thesis, moves beyond the need to explain the incidence of militarisation. A discussion of the theory is needed to present an analytical understanding of the simultaneous actions and implications culled from the integration of the critical and constructive analyses presented in Chapters Three and Four. This Chapter thus, presents an overall discussion/description of the theory, following its explanatory accounts provided within the theory statement, on the social and legal factors that have motivated the Nigerian government's decision to militarise the Niger Delta region.

Around the world there is evidence of excessive military presence on indigenous lands.[20] The act of militarisation in the Niger Delta region, motivated by the simultaneous interplay of social and legal factors, is revealed to be a tactical social action stimulated by the 'power dynamics' of the state and safeguarded by the 'self-serving laws' of the State. This social action is spearheaded by Nigerian government through the continuous use of military force against the

[19] J Corbin and A Strauss, *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (4th Edition, Sage Publications 2015) 6.
[20] See generally J Corntassel, 'Re-envisioning Resurgence: Indigenous Pathways to Decolonization and Sustainable Self-Determination' (201) 1(1) Indigeneity, Education and Society 86.

indigenous peoples living in the region. The actions that have come to establish the permanence of militarisation in the Niger Delta region have been critically and constructively analysed in Chapters Three and Four. The theory however presents a clear guide, using concepts developed to expose the relationships of these actions and their direct implications. The hostile relationship between the Nigerian government and the indigenous peoples living in the Niger Delta region has over decades bloomed into one that is dominated by violent conflicts. Violent conflicts thus have an established presence as a reoccurring action from both the peoples and the governments' actions.

The Nigerian government's actions are predominantly motivated by the economic factors attached to the expropriation of resources found on indigenous peoples' territories, conditioned from their acts of fractioning profits without the consultation of the peoples living in these territories. It is following this bypass of consultation that the government have successfully, over decades, imposed acts, through their military officials, on these indigenous peoples living in the region which are unequivocally unjust and illegal. Intimidation, which although is part and parcel of the social bearings of majority of developing countries in the world, have developed into more intense human rights violations as seen in the critical analysis in Chapter three. The Nigerian government inspired by the power dynamics of the State become placid to morally just conducts. They have for decades been unanswerable for their actions, this is so even in cases where these actions are so severe that they would ordinarily be unacceptable in other societies. Reference is made here to the listed military events in Chapter one, which forms part of the broader conditions in grounded theory research. These events account for the killings of people in the Niger Delta region by the Nigerian government using their military officials; killings ranging from the volume of 5, to 2,483 deaths of indigenous peoples in the Niger Delta region. The injustices in such actions are unconcealed.

Furthermore, this level of intimidation by the Nigerian government, stimulated by both the self-serving laws (through violent conflicts) and the power dynamics of the State, reaffirms the disregard by the Nigerian government of its citizens' human rights. The disregard for human rights through the 'power dynamics' of the State is not limited to the intimidation of the media and the indigenous peoples by the Nigerian government, it has evolved into influencing relationships between the indigenous communities, intervention agencies, and international oil

companies. This is in reference to environmental blunders, which naturally should have bodies that settles disputes between oil companies, the Nigerian government and the indigenous peoples through compensations or corporate social responsibility. As noted in Chapter Three. These intimidations have evolved into outright acts of oppression, repression, and in the worst cases murder, as critically analysed in Chapter Three, following Shell's enlistment of armed guards to supervise their activities in the Niger Delta region. These acts are illegal and unjust, and when brought within context are the resulting factors of the violent conflicts that have dominated the Niger Delta region; thus are motivating factors of the Nigerian government's decision to militarise the Niger Delta region.

Negative influence over the Nigerian media, nurtured by the corrupt relationships, stimulated from the 'power dynamics' of the State, between all actors in the Niger Delta region, continues to evolve. The media as a result are presented with fantasised facts, misrepresenting the struggles, accounts, and experiences of the indigenous peoples living in the Niger Delta region. These fantasised facts are biased and inclined towards characterising these peoples as deliberate aggressors. The outcome of which has been the intensification of conflicting reports/claims to the detriment of the peoples, as critically analysed in Chapter Four. When these fantasised facts are translated to the world the result is a picture of a war zone disaccorded by illegitimated claims from a group of peoples whose mission remains to cripple the development of the national economy and rupture the unity of Nigeria. The Nigerian government successful in painting this picture, thus presents a justification for its illegal and unjust actions towards the indigenous peoples of the Niger Delta region amounting from the influence of both their self-structured laws and power dynamics. Their decision to militarise the Niger Delta region thus remains unchallenged by the international community whose intervention would bring about the end of militarisation in the region.

Legal instruments such as the 1999 Constitution, the Land Use Act 1978 and the Petroleum Act 1969 are deliberately structured to accommodate the Nigerian government's bid to expropriate resources found on indigenous lands without interruption, and bypass consultation whilst fractioning of profits attained from these resources. These laws were revealed to be by their very nature discriminatory towards the indigenous peoples of the Niger Delta region, as critically analysed in Chapter Three. Challenging the structures of these laws is what amounts

to the Nigerian government's determination to silence the indigenous peoples is the region. The laws are not to be questioned, whether they are flawed or not. Where the indigenous peoples summon the courage to challenge the Nigerian government, the intensification of the peoples struggles and demands is evident. For every event of protest, whether violent or peaceful, government use of force against the peoples of the Niger Delta region is prompted. Reference is made here to the murder of Ken Saro-Wiwa (the Ogoni Nine) by the Nigerian government, critically analysed in Chapter Four. Ken Saro-Wiwa's challenge of the Nigerian government followed the environmental blunders committed in the Niger Delta region by oil companies granted licences by the government, and the power dynamics of the State that have seen the permanence of the depleting state of the region. These 'self-serving laws' in Nigeria thus motivate the Nigerian government's decision to militarise the Niger Delta region.

Furthermore, on the levels of illegalities and injustices emanating from these 'self-structured laws', the Nigerian government, in exercising its 'power dynamics' over social actions, abstained from voting for the UNDRIP 2007 whose provisions amounts to some level of rights for indigenous peoples around the world. The relationship between the government self-structured laws of Nigeria and the provisions of the UNDRIP is highlighted in Chapter Three. The governments expropriation of resources found on indigenous lands, as the Petroleum Act 1969 vest 100% of these resources on the government, has meant that they also following the Land Use Act 1978 vesting all lands on the State is contradicted under the provisions of the UNDRIP 2007. The provisions of the UNDRIP 2007 coupled with indigenous demands are viewed as challenges by the Nigerian government. The orchestration of violent conflicts thus commences, as this distracts the major players in the Niger Delta region from the complex issues that are standing against indigenous peoples' protection against militarisation and them attaining some level of rights by virtue of their culturally unique characteristics. The Nigerian government thus reject indigenous peoples' rights; this is critically analysed in Chapter Three.

The political structure of Nigeria exposes a complex structure of 'power dynamics' that reoccurs in the history of Nigeria's Niger Delta peoples, this structures runs through government's social actions and their outcomes. Indigenous peoples living in the Niger Delta region are thus placed at the lower end of society, this is critically analysed in Chapter Three. This politically motivated spectrum is orchestrated by the Nigerian government to ensure that

the peoples are sufficiently contained where the need arises. Contained against making challenges that exposes government dealings on indigenous lands, hence the level of the government's use of intimidation as a tool reappears. The peoples are then forced to lose bids before they even progress to make them. Ogunlade submits:

> There is a lack of clear political will on the part of the Nigerian Government to protect and promote indigenous rights relating to its oil ventures, globally, the chorus for the guarantee of indigenous rights is getting louder by the day, Nigeria can only remain ambivalent and ignore these vociferous ululations to its peril.[21]

Defeated by the political structure the peoples are forced to resort to illegal actions to express their resistance of the government's actions. Thus inciting violent conflicts in the region, which is a resulting outcome and instigator of the Nigerian government's decision to militarise the Niger Delta region.

Violent conflicts are orchestrated by both the 'self-serving laws' of the State and the 'power dynamics' of the State. These conflicts are the simultaneous outcome of all factors that motivates the Nigerian government's decision to militarise the Niger Delta region. They thus act as motivators, as analysed in Chapter Three. They however interestingly reoccur as the outcome of militarisation, thus a circle of events exposing deeper trends which need to be abolished in order for indigenous peoples in the Niger Delta region to be protected. The above deeper trends are thus the motivations of the Nigerian government's decision to militarise the Niger Delta region. The above discussion presents the relationships between all the motivations of the Nigerian government's decision to militarise the Niger Delta region. Within this discussion the complex concepts of 'self-serving laws' and 'power dynamics' uncovered in the research's theory are used to highlight the relationships between the social and legal motivations.

The impact that the act of militarisation has had on the indigenous peoples in the Niger Delta region have reached heightened exhibitions of illegalities and injustices imposed on the peoples

[21] See generally A Ogunlade, 'Petroleum Exploitation and Indigenous Peoples Rights in Nigeria: Can the International Labour Organization help?' (University of Dundee) https://www.scribd.com/document/71215319/Petroleum-Exploitation-and-Indigenous-Peoples-Rights-in-Nigeria accessed 18 September 2017.

by the Nigerian government. According to Charmaz: 'grounded theorist can offer integrated theoretical statements about conditions under which defined forms of injustice or justice develop, change or continue.'[22] The objective of this research's thesis as noted in Chapter One is to develop a theoretical explanation, based on indigenous peoples' accounts and experiences, of the Nigerian government's decision to militarise the Niger Delta region. In achieving this, the deeper trends working simultaneously to promote these injustices and illegalities were revealed. This research following this revelation submits that when focus is placed on the indigenous peoples of the Niger Delta region, by the Nigerian government and other parties, there should be a body of work subjectively formulated. It was by this research thesis being based on the indigenous peoples' accounts and experiences that it sufficiently exposes these deeper trends, putting aside generic analysis of the indigenous experiences, as seen in Figure 1 above. The concepts in Figure 1 provide an articulate directory for explaining how this research achieved its stated objective.

ANALYSIS OF THE THEORY WITHIN THE POLICY RECOMMENDATIONS

The theory's predictive and problem-solving nature necessitated the presentation of actionable-policy recommendations, evidencing how the theory's reflected constraints/implications can be tackled for the benefit of the indigenous peoples in the Niger Delta region. Hence within these recommendations the theory is analysed. Moving the theory beyond what may be deemed as descriptive only, i.e. lacking in a high level of conceptual abstractions, is what necessitated the analysis of the theory with the proposed actionable-base policy recommendations. Transformative paradigm researches are expected, according to Creswell:

> To contain an action agenda for reform that may change the lives of the participants, the institutions in which the individuals work or live, and the researcher's life… Transformative research provides a voice for these participants, raising their consciousness or advancing an agenda for change to improve their lives. It becomes a united voice for reform and change.[23]

[22] Charmaz 2014 (n3) 326.
[23] J W Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches* (4th Edition, Sage Publications 2014) 9 and 10.

Policy recommendations, as defined in the introductory chapter of this research thesis, are: 'written policy advice prepared for a group of persons, such as governments or organisations, that have the authority to make or influence policy decisions.'[24] According to Partington:

> The lessons to be drawn from empirical research on law should not be of academic interest only. They should be of considerable value to those working in government and other policy-making contexts. Lawmakers should want to understand how law may be used to deliver policy objectives and how laws they have promoted are impacting challenges arising in the societies they govern.[25]

Furthermore, Gerring asserted:

> While not every study will have a policy lesson, every academic should reflect upon something that citizens and policymakers , or might, care about.[26]

Amunwa and Minio notes:

> The Niger Delta region is over-policed and under-secured… the militarization of the region is deeply flawed and counter-productive, with government forces frequently failing to provide protection for the people and often creating more insecurity.[27]

These actionable-policy recommendations are original contributions to knowledge, and are directed at the decision makers stationed within the government of the Federal Republic of Nigeria. The idea behind these recommendations is that if they are applied within policy instruments by the Nigerian government, it would mean that the indigenous peoples living in the Niger Delta region are legally protected against acts of militarisation. John submits that; 'any government that cannot face the facts or reasonably confront issues is not a responsible one for that matter.'[28] Abidde rightly opines:

---

[24] Centre for Ageing Research and Development in Ireland, '10 Guidelines for Writing Policy Recommendation' http://www.cardi.ie/userfiles/Fact%20sheet%20%28web%29.pdf accessed 17 September 2017.

[25] M Partington, 'Empirical Legal Research and Policy-Making' in P Cane and H Kritzer (eds), *The Oxford Handbook of Empirical Legal Research* (Oxford University Press 2010) 1002, 1003.

[26] M Goodwin, 'How Academics Can Engage with Policy: 10 Tips for a Better Conversation' *Guardian* (United Kingdom, March 2013).

[27] B Amunwa and M Minio, 'Counting the Cost Corporations and Human Rights Abuses in the Niger Delta' (Platform, October 2011) http://platformlondon.org/nigeria/Counting_the_Cost.pdf?utm_medium=email&utm_campaign=Nigeria+report&utm_content=Nigeria+report+CID_6addf4ad4ab7379a0625f65cb36b120e&utm_source=campaign+monitor&utm_term=new+report accessed 14 February 2017 .

[28] E O John, 'A Critique of John Rawls' Social Justice Theory and the Fate of Nigeria's Politics in the 21st-Century and Beyond' (2014) 28 Journal of Law, Policy and Globalization 12, 19.

The Niger Delta region is not a solution-defying region; crisis in the region is not so complex that it cannot be resolved. No matter how long and complex human-induced problems are, they are eventually resolved, as long as all parties genuinely want a resolution.[29]

RECOMMENDATION A

Legal Instruments such as the Land Use Act 1978, the Petroleum Act 1969 and the 1999 Constitution of Nigeria, which by their very context and creation are discriminatory towards the indigenous peoples of the Niger Delta region, need to be revisited and amended. These instruments by their very nature have threatens the existence of the indigenous peoples living in the Niger Delta region. They include according the Nigerian government 100% rights over resources and lands within the 1978 and 1969 Acts, to the Constitution's sole beneficiary rights over the principle of derivation, as provided for under Section 162(2) of the 1999 Constitution. Under Section 162(2):

> The President, upon receipt of advice from the Revenue Mobilisation Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation account, and in determining the formula the National Assembly shall take into account, the allocation principles especially those of population, equality of States, internal revenue generation, land mass, terrain as well as 'population density'.[30]

Furthermore, Section 16(1) of the Constitution partly states: 'the State shall, within the context of the ideals and objectives for which provisions are made in this Constitution, control the national economy…'[31] Section 1(1) of the Petroleum Act 1969 states: 'the entire ownership and control of all petroleum in, under or upon any lands to which this section applies shall be vested in the State.'[32]

Section 1 of the Land Use Act 1978 states:

> Subject to the provision of this Act, all land comprised in the territory of each State in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act.[33]

[29] S O Abidde, *Nigeria's Niger Delta: Militancy, Amnesty and the Postamnesty Environment* (Lexington Books 2017) 155.
[30] The 1999 Constitution of the Federal Republic of Nigeria.
[31] Ibid.
[32] The Petroleum Act 1969.
[33] The Land Use Act 1978.

Section 2(1) of the Act further states:

> As from the commencement of this Act (a) all land in urban areas shall be under the control and management of the Governor of each State, and (b) all other lands, subject to this Act, shall be under the control and management of the Local Government, within the area of jurisdiction in which the land is situated.[34]

These sole beneficiary rights have only strengthened the illegal distribution of resource wealth in the Niger Delta region. It is this illegal distribution of wealth, through the expropriation of resources found on indigenous lands, sanctioned by the 'self-serving laws' of the State that has for years motivated the militarisation of the Niger Delta region, as expressed in the theory. Where some of these peoples have built up the courage to challenge the structures of these laws, they are met by violent actions from Nigerian military officials, under the order of the government, hence they are militarised. This act of militarisation is illegal and is occasioned when these military officials, sanctioned to ensure that the government is not challenged, discharge their statutory functions outside best standard practices, paying no heed to the sanctity of human lives.

The Nigerian government must understand that claims made by indigenous peoples are not meant as threats to the national economic development and unity of Nigeria. The theory identified the Nigerian government's narrow bid to expropriate resources found on indigenous lands without interruption, and bypass consultation whilst fractioning profits attained from these resources as a prompter of violent conflicts. This expropriation of resources is tied to the history of the Niger Delta in the stead of 'resource control' and the 'resource curse', as analysed in the literature review chapter. The laws of Nigeria, as evidenced above, stresses that rights to resources found on indigenous lands belong to the Nigerian government, who are at liberty to distribute these resources and profits as they deem fit. It is from this that the government, through its national laws, provided for the 13% derivation fund for the benefit of the resource producing communities, which have been subjected to a history of conflicts.

The critical and constructive analysis in Chapter three and the interview axial coding chart shows how the fund has been reduced from 50% in the 1960s to the current 13% through these

[34] Ibid.

'self-serving laws', providing evidence of growth in the intimidation, oppression and marginalization of the indigenous peoples. Indigenous peoples' demands for the government to reverse this percentage have also been met with the use of military force, hence militarisation by the government, as the government claims that the fund would mean the peoples have complete control over the resources on their lands. According to Odje: 'the 13% derivation fund does not equate to indigenous peoples' control over resources found on their lands.'[35] Indigenous peoples' demands for the increase of this derivation fund under these 'self-serving laws' of the State have wrongfully instigated violent conflicts.

The peoples' reaction by using violent conflict is tied to the deeper trend of factors that have motivated the Nigerian government's decision to militarise the Niger Delta region. These conflicts instigated by resources is analysed in the reviewed theoretical underpinnings in Chapter one, where Collier and Hoeffler's econometric model of 'greed and grievance'.[36] This research theory rejected their submissions that greed not grievance is what legitimately instigates conflict, maintaining that the grievance amounting from the indigenous peoples in the Niger Delta region's demand for resources is not linked to an overwhelming desire for more. The peoples of the Niger Delta cannot demand for more, where they have been given none. The depleting state of the Niger Delta region, evidencing unemployment and poverty rates equates the peoples' grievances as legitimate. This research thus maintains that the violent conflicts influenced by the 'self-serving' laws of the State is valid, thus motivating militarisation in the Niger Delta region. The amendment of the above laws will effect change in the Niger Delta region. Tackling discrimination from the source, i.e. the legal instruments of Nigeria, will ensure that violent conflict instigated as a result of natural resources found on indigenous peoples' lands is brought to an end. This would in turn bring an end to the Nigerian government's militarisation of the Niger Delta region.

RECOMMENDATION B

The Nigerian government should ensure that its military officials, when carrying out their statutory functions, do so within best standard practices that acknowledges the sanctity of human lives. The military in Nigeria, instead of carrying out their duties which should see them

[35] A M Odje, '13% Derivation, Falling Crude Price and the Constitution' *Vanguard* (Nigeria, February 2016).
[36] P Collier and A Hoeffler, 'Greed and Grievance in Civil War' (2004) 56 Oxford Economic Papers 563, 563.

curbing criminal acts and violent conflicts, have progressed to committing serious human rights violations by virtue of the fact that they are not answerable for their actions, thus intensifying violent conflicts. They have, in carrying out their duties, resorted to violating the indigenous peoples of the Niger Delta region's human rights, as reflected in this research's theory. Witkin proposes: 'incorporating theory and research can influence how human rights are understood and applied.'[37] This research's theory supports Witkin's proposal. The Nigerian government's militarisation of the indigenous communities in the Niger Delta region, as reflected in the theory represents an injustice to the indigenous peoples, and reflects a flawed democratic structure of the State both stimulated by the 'power dynamics' of the State. Human rights legal instruments ratified by Nigeria under the United Nations (UN), should mean that these injustices by the Nigeria government should not persist, but this is not the case.

It is time for these legal instruments/documents that Nigeria openly supported to be reflected in its dealings with its citizens. One of these human rights documents ratified by Nigeria is the International Covenant on Civil and Political Rights (ICCPR). This document is the primary document used by the UN in addressing human rights in which Article 1 states:

> All the peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
> All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own subsistence.
> The States parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right to self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.[38]

Furthermore, Article 27 of the ICCPR states:

> In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of the group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.[39]

---

[37] S L Witkin, 'An Integrative Human Rights Approach to Social Research' in C Truman, D Mertens and B Humphries (eds), *Research and Inequality* (UCL Press 2000) 205-206.
[38] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).
[39] Ibid.

Another human rights document ratified by Nigeria is the International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 1(2) of which states: 'all people may, for their own ends, freely dispose of their natural wealth and resources without prejudice.'[40]

Moving on from the above international human rights documents, on the regional front Nigeria has ratified and domesticated the African (Banjul) Charter on Human and Peoples' Rights (ACHPR) 1981 whose provisions correspond to both the provisions of the ICCPR and the ICESCR ensuring human rights and to an extent promoting indigenous rights. Article 20 of the ACHPR states:

> All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen. Colonised or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognised by the international community. All peoples shall have the right to the assistance of the states' parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.[41]

Article 21(1) of the ACHPR further states:

> All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people, in no case shall the people be deprived of it.[42]

The above provisions express protection for the indigenous peoples of the Niger Delta region under human rights instruments, as ratified by the Federation of Nigeria. This means that the injustices unleashed on the peoples by the Nigerian government through militarisation, as expressed in the theory, should not be sanctioned by the international communities. The fact that the government has ratified the above documents under the UN means that they have made binding international commitments to adhere to the standards outlined in the documents.[43] Aka asserts:

---

[40] International Covenant on Economic Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR).
[41] African Charter on Human and Peoples' Rights (Banjul Charter) (adopted 27 June 1981, entered into force 21 October 1986) CAB/LEG/67/3 rev.5, 21 I.L.M. 58.
[42] Ibid.
[43] http://www.claiminghumanrights.org/nigeria.html accessed 17 September 2017.

> For ethnic peace in the Niger Delta region the Nigerian government must heed the injunction in both the ICCPR and the ICESCR regarding economic self-determination that in no case may a people be deprived of its own means of subsistence.[44]

The Nigerian government should incorporate bodies, trampling on the established 'power dynamics' of the State, responsible for checking on military operations across the Niger Delta region. The containment of indigenous peoples' challenges by silencing them is a direct injustice done to the peoples. The inability to have a voice amid such complex array of events amounting to militarisation decries the purpose of human rights. Both the military officials and the government should be answerable based on Nigeria's human rights promotion ties as there is an absence of a people-considerate approach in dealing with the indigenous peoples of the Niger Delta region. For example, as analysed in the literature review chapter, socially motivated violent conflicts where governments have broken social contracts is legitimate. This research's theory in support of the above statement which originated from Brown and Stewart's 'social contract theory'.[45] The absence of social stability prompted by the disregard for human rights prompts retaliation from the indigenous of the Niger Delta region, thus intensification of violent conflicts and the motivation of the Nigerian government's decision to militarise the region.

The issues in the Niger Delta region have moved beyond the usual methods employed by the Nigerian government; one of these is their promotion of peace, all to ensure that there are no cracks in their international relationships. These past methods as reflected in the analyses in Chapter Four have only progressed in systematically motivating violent conflicts in the region. They are placed within the context of a government whose ultimate mission is to ensure that the peoples of the Niger Delta region are contained when challenges are raised. Thus when outbursts receive some attention, the government releases these measures to keep the people occupied, and the rest of the world distracted from their actual intentions which as noted in the theory remains attached to the expropriation of resources. There is now an imminent need for

[44] P C Aka, 'Bridging the Gap Between Theory and Practice in Humanitarian Action: Eight Steps to Humanitarian Wellness in Nigeria' (2012) 24(1) Willamette Journal of International Law and Dispute Resolution 1, 24.

[45] G K Brown and F Stewart, 'Economic and Political Causes of Conflict: AN Overview and Some Policy Implications' (February 2015) CRISE Working Paper No. 81 13 http://www3.qeh.ox.ac.uk/pdf/crisewps/workingpaper81.pdf accessed 25 October 2017.

Nigeria to evaluate her stance on these human rights instruments and their actions, inactions and attached consequences in relation to indigenous peoples' struggles in the Niger Delta region. Following Nigeria's ratification of the above documents, she should not be able to act in the manner that she does, as militarisation is unquestionably illegal. This research theory submits that militarisation is a tactical social action stimulated by the 'power dynamics' of the State and safeguarded by the 'self-serving laws' of the State.

RECOMMENDATION C

The Nigerian government should reverse their position on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007, having abstained from voting for UNDRIP 2007. The UNDRIP 2007 is the result of decades of indigenous struggles to ensure that their rights are recognised worldwide It is a document that upon its adoption, addressed remedies for the injustices that have been committed against indigenous peoples around the world for decades. The government's decision to abstain from voting for this Declaration can be traced to a reluctance to agree that these peoples have struggles in the region, which would mean that they have to ensure that the indigenous peoples are protected against their actions. The Nigerian government providing this protection would however a conflict with the interests for them, as this research's theory identified their bid to expropriate resources found on indigenous lands without interruption, bypassing consultation whilst fractioning profits attained from these resources. All of which have in turn motivated their decision to militarise the Niger Delta region. The provision of the UNDRIP would thus bring an end to this. The violent conflict and militarisation in the region, as expressed in this research's assertions, is beneficial to those who rightfully should not benefit from the wealth of the Niger Delta region. The preliminary articles of the UNDRIP 2007 emphasise the demilitarisation of indigenous lands, stating:

> The General Assembly, guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter… emphasising the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding friendly relations among nations and the peoples of the world…[46]

[46] UN Declaration on the Rights of Indigenous Peoples, A/61/295 (2007) http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf accessed 1 October 2017.

Article 3 of the UNDRIP 2007, provides, in relation to the struggles that the indigenous peoples have had regarding the right of self-determination:

> Indigenous peoples have the right to self-determination. By virtue of the right they freely determine their political status and freely pursue their economic, social and cultural development.[47]

Article 4 of the UNDRIP 2007 further states:

> Indigenous peoples, in exercising their right to self-determination have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.[48]

The reversal of the Nigerian government's position on the UNDRIP 2007 would mean that the indigenous peoples of the Niger Delta region are protected under this instrument, hence bringing an end to the government's militarisation of their communities. Bolinget, in expressing the relevance of the UNDRIP 2007 to violent conflicts and militarisation, asserted:

> If states are really in good faith in adopting the UNDRIP and adhering to international human rights standards, why did they not accept and consider our proposal and call for an end to militarization of indigenous peoples and their territories?... Our rights as indigenous peoples can never be implemented for as long as these situations are not changed.[49]

The repudiation of indigenous rights, as highlighted in this research's theory and Chapter three, is a government action, resulting in violent conflicts, the expropriation of indigenous resources, the priority of national economic growth over indigenous struggles and the silencing of indigenous peoples' voices amid injustice. These outcomes have had a resulting outcome on indigenous peoples' demands for self-determination. These internal self-determination struggles by the peoples have been highlighted in the literature review chapter. Gayim notes: 'self-determination is central to all claims of indigenous peoples; it is an important universal principle that can hardly be challenged.'[50] Despite the above, as analysed in the literature review chapter, the Nigerian government has been stern in their denial of this right to self-

---

[47] Ibid.
[48] UN Declaration on the Rights of Indigenous Peoples (n46).
[49] D Ayroso, 'First UN Conference on Indigenous Peoples Mum on Self-determination, State Violence' (29 September 2014) http://www.democraciaycooperacion.net/espacio-colaborativo/asia-pacific/your-documents-attached-to-the/article/first-un-conference-on-indigenous accessed 10 April 2017.
[50] E Gayim, 'The United Nations Law on Self-Determination and Indigenous Peoples' (1982) 51(1) Nordic Journal of International Law 53, 55.

determination, citing secessionist fears. As the analysis of the principle in the literature review chapter evidences, these fears are baseless. They are tied to the government's actions of expropriation of resources, prioritising national economic development and silencing indigenous peoples, as expressed in the theory. This research thus maintains that self-determination as a right being made available to the indigenous peoples in the region would act as a protective mechanism against the illegal act of militarization, and should be welcomed with enthusiasm.

There is need for meaningful dialogue to successfully tackle militarisation in the Niger Delta region. Had the Nigerian government focused on resolution mechanisms from the incorporation of the UNDRIP's provision into policies and recommendations, they would have gone made relevant progress towards curbing violent conflicts in the region, and in turn tackled indigenous struggles. But one must ask if they are truly willing to tackle indigenous struggles and violent conflicts. This is because hidden in the country's past attempts at tackling indigenous struggles in the region is the fact that promoting a legal and social structure that would end these conflicts would mean a dent in the 'supposed' promotion of the national economy through narrow bids of expropriation of resources found on indigenous lands by bypassing consultation, whilst fractioning profits attained from the resources. Accepting that the indigenous peoples have rights under the UNDRIP 2007 would mean that the above is brought to an end, which in turn would end confrontations and violent conflicts, and would mean that the Nigerian government's militarisation of the Niger Delta region being brought to an end, or at the very least their military officials will be contained. Ensuring that the officials behave in manners which are sufficiently within best standard practices, thus respecting both the indigenous peoples' rights under the UNDRIP 2007, and their human rights.

RECOMMENDATION D

The political structure of the Niger Delta region should be reconstructed to ensure that injustices and illegalities directed at the indigenous peoples within the region and Nigeria are eliminated. The political structure is such that it influenced the 'power dynamics' of the State, thereby giving the government the power to orchestrate events through administrative agencies and the media to its benefit, on the one hand. Whilst on the other hand, ensuring that ethnic conflicts are instigated due to inequalities. Violent conflicts, as highlighted in this research's

theory, of the factors that occur simultaneously in influencing the Nigerian government's decision to militarise the Niger Delta region. Injustices, illegalities and ethnic conflicts are amongst these factors. Reconstructing the political structure of the State wold mean that they are brought to an end. Unfortunately, the political structure is such that it has resulted in the indigenous peoples acting against their own interest. Division within these indigenous communities, through ethnic conflicts amongst others, in the Niger Delta region is a dangerous tool in the hands of the Nigerian government, which they will continually use in defence of their actions, leading to indigenous struggles being misinterpreted. Ogunlade opined:

> There is a lack of clear political will on the part of the Nigerian Government to protect and promote indigenous rights relating to its oil ventures. Globally, the chorus for the guarantee of indigenous rights is getting louder by the day. Nigeria can only remain ambivalent and ignore these vociferous ululations to its peril.[51]

Leaders, i.e. councillors and House of Assembly members, within the communities are forcefully imposed on the people, based on the government's ability to control their actions. It is fairly easy to ignore the importance of being able to reflect community voices in the presence of so called 'leaders' of indigenous peoples in the Niger Delta region. The indigenous peoples' inability to have proper access to representatives of their communities and region situated in the government structure means an inability to express challenges, hence accelerating indigenous peoples' clamour for rights, which incites violent conflicts. Reference is made here to Stewart's theory of horizontal inequalities' which was reviewed and analysed in the literature review section in Chapter One. The theory submits that political movements have the potential to become violent based on the responses to demands made by groups of peoples, where the governments meet these demands with resistance, violent conflict is the expected outcome.[52] So serious is this issue of representation that some indigenous peoples living in these communities are not even aware that there are people delegated to manage their concerns and issues they raise. This is because the people did not vote for these representatives, evidencing the myth of democracy in Nigeria. This resounds the injustices that the indigenous peoples living in the Niger Delta region have been subject to for decades.

---

[51] (n21).
[52] Brown and Stewart (n45) 9.

The case of the Ogoni people is evidence of where the indigenous peoples of the Niger Delta region were denied rights to their resources, defenceless against dominant ethnic groups of the society who are in control of the government and had access to the military.[53] The political structure of the State is not geared in favour of indigenous peoples. Where the peoples' voice concerns about the 'self-serving laws' of the state that do not protect their interests, and need to be restructured in the House of Representatives, their actions can be voided by other politically dominant groups who benefit from the resources found on indigenous lands. So established is this structure in Nigeria, that the government is often challenged for their carefree attitude towards the plights of the indigenous peoples of the Niger Delta region. The government's lack of attentiveness to their struggles equates to its denial of their existence and denial of the fact that the peoples are indeed a marginalized group who require special attention in the legal, social and political structure of the State.

The political structure and 'power dynamics' in Nigeria is such that the government has for decades succeeded in criminalising acts of indigenous peoples' defence against military repression, oppression, discrimination and human rights violations. The government has successfully established negative influences over administrative structures and the media in Nigeria. The level of the government's intimidation in the Niger Delta region is appalling. Environmental agencies such as the National Oil Spill Detection and Response Agency (NOSDRA) are manipulated by the power dynamics in the region, and media reports are structured in ways that criminalise the Niger Delta struggle. Such injustices are what have influenced indigenous peoples' contributions to militarisation in the Niger Delta region. There is no excuse for violent conflicts; however, as rightly noted by Ojakorotu and Olawale: 'in all of history, every people under such inhuman oppression ultimately took up arms to right wrongs.'[54] The indigenous peoples in the Niger Delta region should be guided towards the effect of intellectual militancy, which is the opposite of their decision to carry up arms and violent conflicts.

---

[53] O I Ademodi, *The Rights and Status of Indigenous Peoples in Nigeria* (Bauu Institute Press 2012) 138.
[54] V Ojakorotu and O Olawale, 'Understanding the Niger Delta Conflict: Matters Arising' in V Ojakorotu (ed), *Contending Issues in the Niger Delta Crisis of Nigeria* (JAPSS Press 2009) 11.

These violent conflicts as expressed in this research's assertions and theory have opened legitimate indigenous struggles to doubts and questions. But if indigenous actions do not influence government's doubts of their struggles, the government will then orchestrate other methods to ensure that there is unrest in the region. As noted in the literature review chapter, the Marxist school of thought on the 2009 Gbaramatu massacre stated:

> The accidental must be separated from the essential. It is further stated that, necessity expresses itself through accident. If those soldiers had not been killed, the Nigerian ruling class, faced with dwindling oil revenues in a time of global economic crisis, would have found another military political pretext to launch this offensive. In other words, this action was inevitable.[55]

From the above it is evident that the government's decision to militarise the Niger Delta region is entrenched in deeper issues, as expressed in this research's assertions and theory. The political restructuring of the region would ensure that the indigenous peoples are legally protected against the Nigerian government's remedy of using military force on them to end violent conflicts in the region, and in turn end militarisation in the region.

REFLECTIONS

My journey through conducting constructivist grounded theory and arriving at this research's theory, despite its challenges, upon completion was entirely fulfilling. My personal experiences and background played a major role in my methodological choices. Upon the commencement of my PhD programme, conducting this research thesis that reflects the effects of the law in society was something I was not willing to compromise on. In spite of the academic and personal challenges I encountered through the journey, I was adamant on ensuring that what this research creates reflects indigenous peoples' accounts and experiences and my interpretations of these.

Charmaz's constructivist grounded theory, within this research's transformative framework, was suitable for this empirical legal research because it suggests a social interaction approach in using grounded theory that emphasizes the researcher's interaction and involvement with

[55] D Cheeka, 'Nigeria: Militants; Armed Forces; Innocent Victims' September 2009 http://www.marxist.com/nigeria-militants-armed-forces-niger-delta.htm accessed 17 September 2017.

participants in constructing theory.[56] The interaction with the participants made all the difference in this research thesis. It elevated this research thesis from providing academic contributions to knowledge to proposing real change in the indigenous communities.

Furthermore, the flexibility of the constructivist grounded theory method proved to be an incontestable strength, ensuring that my interpretations as a researcher were sufficiently evidenced throughout the research. Drawing connections between actions ensured that even in the presence of indigenous accounts, my observations were well articulated. The creation of the theory also proved to be a strong point, without which I believe researches may be exposed to critiques of originality, amongst others. This does not undermine other approaches to conducting research, but reiterates the compatibility between the constructivist grounded theory and this research's objectives. The generation of the theory in a grounded theory research, as noted above, is the end product, without which one cannot be confident in claims of having conducted grounded theory. My theory, model/discussion format, achieved a high level of conceptual abstraction.

> Grounded theory means learning about the specific and the general – and seeing what is new in them – then exploring their links to larger issues or creating larger unrecognized issues in entirety. An imaginative interpretation sparks new views and leads other scholars to new vistas. Grounded theory can create a route to see beyond the obvious path to reach imaginative interpretations.[57]

This research's move from theory to actionable-based policy recommendations was prompted by the fact that from the commencement of my PhD programme, I have always held in high regard the effect that conducting empirical research can have on the real world. This is a decision that I remain proud of. Although not an easy road, it has essentially given my research the uniqueness that I believe is a substantial and original contribution to existing knowledge, whilst having the potential to effect change in the real world. This research thesis within its transformative framework, and the application of the constructivist grounded theory method, has succeeded within its Chapters, the theory, and the actionable-based policy

[56] J Y Cho and E-H Lee, 'Reducing Confusion about Grounded Theory and Qualitative Content Analysis: Similarities and Differences' (2014) 19(64) The Qualitative Report 1, 3.
[57] Charmaz 2014 (n3) 323.

recommendations in answering the research question of the social and legal motivations of the government's decision to militarize the Niger Delta region.

LIMITATIONS

The transformative/constructive/critical approach, which this research uses, places immense focus on participants' influence in the creation of theory – a notion that is usually shunned by black letter lawyers. Hence the policy recommendations may not stand within other, more positivist schools of thought. In contrast to this research's school of thought in which theory is built on 'the sets of meanings which people use to make sense of their world', the positivist theory is built on: 'a rational edifice built by scientists to explain human behaviour'.[58] This research, however, maintains that the theory developed from this research represents an approach that should be acceptable within a legal framework, and builds on the fact that morality, people and society should influence the law.

Furthermore, upon the commencement of this research thesis, a strong point of call, despite this being an academic research, was through its actionable-policy recommendations effecting change to the benefit of the indigenous peoples in the Niger Delta region. There is, however, a trail of evidence showing little support being received from policy makers when qualitative researchers use academic research to reach out to them. Hadley notes: 'not being heard is common in the research world for social researchers who set out to effect change and influence public policies.'[59] There has, however, been an exception in light of Goffman's research into community care,[60] as is hoped for this research thesis actionable-based policy recommendations. The hope is that at the very least and in the right hands, the actionable-based policy recommendations would spark the government's attention in its future dealings with the indigenous peoples living in the Niger Delta region. Important to note here is that where the above recommendations are to be applied in the real world, there may be the need to refine their structure to fit with government documents. This, however, does not limit the theory and recommendations' effects.

[58] N Walliman, *Social Research Methods* (2nd Edition, Sage Publications 2016) 17.
[59] D Silverman, *Doing Qualitative Research* (4th Edition, Sage Publications 2013) 436.
[60] Ibid.

FUTURE RESEARCH

The development of grounded theory can open pathways for further research to be conducted, both in society and academia. According to Charmaz:

> Grounded theory leads us back to the world for a further look and deeper reflection – again and again. Our imaginative renderings of what we see and learn are interpretations, emanating from dialectics of thought and experience. Whether we adhere to positivist or interpretive traditions, we do not gain an autonomous theory, albeit one amenable to modification. Rather we are part of our constructed theory and this theory reflects the vantage points inherent in our varied experiences, whether or not we are aware of them.[61]

The theory developed in this research thesis provides a suitable guide for further research to be conducted. There is room for the theory developed in this research thesis to be tested within a normative framework; however, following the strong body of evidence that built up to its creation this should not be needed. However, where it is needed, Christensen notes: 'researchers after the presentation of descriptive theories then begin to improve the theory by testing the hypotheses that were inductively formulated.'[62] Furthermore, grounded theory is known for its inductive nature.[63] The inductive nature of grounded theory welcomes a new framework in research into the indigenous peoples of the Niger Delta region. Research into these indigenous peoples usually commences with the confirmation of theories. Research moving on from this theory and actionable-based policy recommendations can confidently test the inductive nature of qualitative method approaches, allowing researchers to identify deeper trends in issues that are otherwise tackled at face value.

Research involving the indigenous peoples themselves remains unexplored in its entirety. As noted in my reflective analysis in Chapter Two of this research thesis, I initially sought to conduct focus groups with the members of the Gbaramatu community in the Niger Delta region. However, following security issues raised by the act of militarisation in the Niger Delta region I was unable to do so. Following the development of the above theory, there is room to invite more participants' contribution in the development of theories detailing indigenous

[61] Charmaz 2014 (n3) 260.
[62] Christensen, (n14) 40-41.
[63] See generally R S Wesley and J E Mello, 'Grounded Theory: An Inductive Method for Supply Chain Research' 1990 International Journal of Physical Distribution and Materials Management 1.

struggles in the Niger Delta region. Furthermore, taking the actionable-policy recommendations developed and testing them with participants' contributions will further create space for the development of theory. Supporting Charmaz's call for the construction of theory that encompasses both participants' and researchers' contributions, testing the theory against the foundation of its development, i.e. the peoples, will further strengthen its purpose within society. This research thesis from the onset championed the view of understanding the workings of law within the Nigerian society, by stating that morality should influence law.

Altogether there appears to be, following my precise application of the methods of empirical legal research, more room for legal research to be conducted within the qualitative approaches of research in sociology. Lawyers being open to the acceptance of the above assertion will transcend into a new world of academia that is welcomed, effecting actual change in the real world.

SUMMARY AND CONCLUSION

This research thesis, following the Nigerian government's decision to militarise the Niger Delta, provided a theoretical explanation of the social and legal motivations of this decision. From this theoretical explanation, this thesis provided actionable-based recommendations, to be effected by the Nigerian government, which are geared towards the legal protection of the indigenous peoples living in the region. This research concludes that militarisation by the Nigerian government is a tactical social action stimulated by the power dynamics of the State and safeguarded by the self-serving laws of the State. Motivations for the Nigerian government's decision to militarise the Niger Delta region were found to occur simultaneously.

The constructivist grounded theory approach, is particularly useful in transformative framework research because:

> It rejects claims of objectivity, locates researchers' generalisations, considers researchers' and participants' relative positions and standpoints… adopts

sensitizing concepts such as power, privilege, equity and oppression, and remains alert to variation and difference.[64]

Mertens notes: 'a transformative research uses a program theory of beliefs about how a program works and why the problems of oppression, domination and power relationships exist.'[65] The Nigerian government's decision to militarise the Niger Delta region is backed by an array of decisions, which has seen the indigenous peoples' interest in the region being placed below that of national economic growth – economic growth that is tied to the resources found on indigenous peoples' lands. Protests have, following the government's successful attempts to suppress the peoples' demands regarding the activities on their lands, escalated into violent conflicts, both between the government and the indigenous peoples and between the peoples themselves. In all of these, the Nigerian government appears as the orchestrator of deeper trends that have led to a permanent military presence in the region.

As the orchestrators, the Nigerian government, through the 'self-serving laws' of the State and the 'power dynamics' of the State, successfully interprets laws, and motivates social actions to ensure that their overall economic development purpose is achieved. It is these orchestrated actions that are unveiled as the social and legal motivations of the government's choice to militarise the Niger Delta region. These indigenous communities in the region following the permanence of the military in the region, as sanctioned by the Nigerian government, have suffered injustices at the hands of the military officials. The acts of military officials following the militarisation of the region are illegal. The Nigerian government successfully crafted and interpreted the laws governing the State, such as the 1999 Constitution and the Land Use Act 1978, as a defence for its actions against the region's indigenous communities and peoples. From the individuals working within the government to leaders with personal agendas, indigenous peoples' struggles in the region and their demands are lost in translation. As a group of peoples who are not backed by legal documents, politics, and even the national economy, it is not surprising that their voices are lost in translation. The inability of the peoples to express struggles and demands, obstructed by a politically and economically driven State, has resulted in the act of militarisation to be regarded as acceptable over decades.

[64] K Charmaz, 'Grounded Theory Methods in Social Justice Research' in N K Denzin and Y S Lincoln (eds), *Strategies of Qualitative Enquiry* (4th Edition, Sage Publications 2013) 293-294.
[65] Creswell (n2) 10.

The constraints resulting from the Nigerian government's actions have resulted in the peoples seeking out remedies. These remedies have been in the form of militancy and criminalised actions, all in their bid to reiterate their demands for self-determination and economic benefits over resources found on indigenous lands. The peoples have failed to articulate their struggles and demands properly, the methods that they have employed are deeply flawed, resulting to the intensified violent conflict in the region, and consequently militarisation by the Nigerian government. It is following such actions that indigenous peoples' struggles and the illegality of the act of militarisation in the region have become lost in an array of surface-based defences provided by the Nigerian government.

This research thesis, in its problem-solving nature, through its theory and actionable-based policy recommendations, proposes means to bringing militarisation in the region to an end. The theme from which both the theory and recommendations were created satisfies the requirements of the constructivist grounded theory which encourages the creation of knowledge from the indigenous accounts and experiences, and my interpretation as the researcher.[66] According to Charmaz:

> A constructivist approach means more than looking at how individuals view their situations. It not only theorizes the interpretive work that the research participants do, but also acknowledges that the resulting theory is an interpretation. The theory depends on the researcher's view; it does not and cannot stand outside of it.[67]

Including indigenous accounts and experiences, and my interpretation as the researcher, shows support for understanding how laws work within societies. This research successfully uncovered areas where both the Nigerian government and indigenous peoples in the Niger Delta region have directly or indirectly motivated militarization. The government's motivations behind their decision to militarise the Niger Delta region were uncovered as; violent conflicts, military use of force, discriminatory laws, human rights violations, repudiation of indigenous peoples' rights, expropriation rights to resources, and prioritizing national economic growth over indigenous struggles. It further uncovered how the indigenous peoples' own actions, in their bid to voice their struggles and demand for rights, have in turn

[66] Charmaz 2014 (n3) 235.
[67] Charmaz 2014 (n3) 239.

negatively assisted the Nigerian government in cheating them out of rights that they should have, following their unique characteristics and circumstances. The indigenous peoples through acts of militancy, criminal activities, conflicting demands and ethnic conflicts whilst demanding these rights, have unconsciously motivated the Nigerian government's decision to militarize the Niger Delta region. This research thesis submits that militarisation by the Nigerian government is a tactical social action stimulated by the power dynamics of the State and safeguarded by the self-serving laws of the State, and there is an urgent need for the Nigerian government to cease from their decision to militarise the Niger Delta.

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

Categories	Why	Where	How Come	When	Structure	Who m	How	Action/Inaction	Consequences of the Action /Inaction
No reflection of the 13% derivation in the indigenous regions.	The 13% derivation paid from the resources found on lands is described by the people as 'chicken change' and is clouded with corruption.	The oil-producing regions/ communities in the Niger Delta.	The recovery of these monies from state governments is clouded by corruption, as by the end of the day, monies that get to the communities are less than 50% of the 13% derivation paid to these communities.	Ongoing, after the 1963 Constitution was repealed.	The provision of the 13% derivation was initially both in the 1960 and 1963 Constitutions listed as 50%, but upon the change of government, and the need to develop other non-oil producing States and boost the economy, the	At the State level by governors and officials meant to be representing these indigenous peoples, and local government by community leaders/chiefs. All of whom are seen to pocket these monies for mostly personal	Federal government fails to keep check on the dealings of those in positions of power, after placing them in these positions. After authority is given, as long as the monies for the federal government are with them (the 85%)	ACTION A deliberate action by the government has been to crystalize the payment of the 13% derivation fund within the 1999 Constitution.	Indigenous peoples in the Niger Delta continue to feel cheated. Solid legal foundations that have sanctioned the discrimination of these indigenous peoples, leading to violent conflicts that supposedly require military acts of force to contain the

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

					percentage (monies) were reduced to the detriment of those in the indigenous regions.	benefits.	they do not care what happens to the indigenous peoples in the Niger Delta region.		peoples.
Constitutional challenge, i.e. state expropriation through laws.	Many laws in Nigeria are drafted for the benefit of those in power, shunning the citizens to whose detriment these laws are executed.	Nigeria as a whole, but more evidently in the Niger Delta region.	Laws such as the Petroleum Act, the Land Use Act, and even the 1999 Constitution, amongst others, are drafted in such a way that the government have not only full ownership	Ongoing.	These laws see indigenous people's resources being exploited without their consent or consultation. Ownership of the resources is vested 100% in the Federal government. The laws are drafte	The Federal and State government.	The government upon the exploitation of the resources on indigenous lands and the attached detriments (such as environmental degradation) stretch the need for economic devel	INACTION The Nigerian government has refused to amend these legal instruments, which further marginalizes the indigenous peoples in the Niger Delta region.	No protection from the legal instruments which govern Nigeria has resulted in the indigenous people's seeking their own remedies in the form of militancy and constructive engagement.

APPENDIX A – INTERVIEWS AXIAL CODES.
N.B – Please disregard chart/page break, all codes represent interviews data.

			of resources on indigenous lands, but have the powers to keep indigenous voices in check.		d in such a way that those in power are the benefactors of the resources, not the indigenous people s who live on the lands where the resources are found.		opment insofar as it leads to the violations of the indigenous peoples' basic human rights.		
International Oil Companies as willing collaborators.	International Oil Companies such as Shell have in the past been seen to work hand in hand with the Nigerian	The oil-producing regions/ communities in the Niger Delta.	Oil companies in these regions fail to adhere to General Memorandums of understanding, corporate social responsibilities	Ongoing.	Oil companies in these regions that exploit the resources on indigenous lands find it cheaper, without doubt, to violate the indigenous	The international oil companies: Shell and Chevron amongst others.	In instances where indigenous peoples in these regions have pointed their fingers at these companies and have requested	INACTION Government does not sanction military officials who, whilst working under the command of oil companies, carry out acts of oppression and intimidation against the	More agitation and armed violent conflicts between military officials and the people s, leading to oil companies' withdrawal from the

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

	government to quell the voices of indigenous peoples through the use of military force because it means more access to the resources on indigenous lands.		and payment of compensation.		people's rights by their acts during the exploration and exploitation of petroleum resources. They are seen to carry out environmental blunders, amongst others, that they clearly would not be able to commit in properly structured States with laws that are actually		that as a result of these violations the companies should exit their lands, these oil companies have sought the protection of the government in the form of the military.	indigenous peoples.	region, hence permanent degradation of the environment and increase in unemployment.

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

					implemented.				
Failure of intervention agencies to act as neutral bodies.	Agencies created to bring about effective dialogue between the indigenous peoples in the region, the government and the oil companies are open to bribes that sway their good judgement.	Niger Delta Region.	What is seen in the region is 'a case of he who pays the piper calls the tune'. Intervention agencies such as NOSDRA are seen to be open to bribes from those in power, in instances where they are meant to be in place for the protection of the	Ongoing.	Communities, as a result of the corruption veiled agencies, are then seen to be in battles against the agencies, international oil companies and the government.	Intervention Agencies.	These agencies collect bribes in cases where violations, such as environmental degradation or corporate social liabilities are reported by the communities, from the oil companies that have carried out those acts of violation.	ACTION Indigenous peoples' decision to bypass biased and corrupt agencies.	When indigenous communities resist these corrupt relationships they are dubbed as militants that need to be placed under surveillance by the Nigerian government.

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

			indigenous peoples in the communities.						
Indigenous people's fears of being dominated by other ethnic groups.	Nigeria has always been dominated by three major ethnic groups, the Yoruba, Hausa and Igbos. As such there has been political, social and economic bias in favour of these dominant ethnic	Nigeria.	Indigenous peoples are regarded as minorities in Nigeria, with the government showing continuous reluctance in the recognition of their rights, both nationally and internationally.	Ongoing	In the House of Representatives which is made up of 360 members, the south-south region which forms the Niger Delta is represented by just 55 members (consisting of 6 states), whilst Kano which is just one state is	Dominant ethnic nationals in Nigeria.	Formed by smaller groups of peoples, in comparison to other ethnic nationalities in Nigeria, which has left room for more discriminatory acts being committed against indigenous peoples in the Niger	ACTION Indigenous peoples' request for internal self-determination to enable them to govern their affairs.	This has led to secessionist claims expressed by the Nigerian government, which has ensured that these indigenous demands are not actualized.

	groups.				represented by 24 members, Hence, for example, where the Land Use Act is proposed to be repealed by those from the Niger Delta region, only Kano state has the power to oppose this decision. What this means is that in terms of the struggle of indigenous peoples for the contro		Delta, with evidence showing people who do not belong to the indigenous communities out-rightly owning oil blocs and controlling resources, whilst there is no evidence of an indigene of the Niger Delta having such benefits (bought or gifted).		

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

					l of resources found on their land, they lose this bid even before proceeding.				
No access to justice for indigenous people s who need to vent their grievances.	Courts do not have a wide jurisdiction in Nigeria and their presence is not evidenced in rural communities.	Indigenous communities in the Niger Delta region.	Not only are courts limited in terms of physical presence in these communities, they are located in the urban areas where the judges are, with due respect, timid and afraid of the gover	Ongoing.	The judicial process is clouded with technical procedures put in place by the government that see litigants giving up before they can even start proceedings. Procedures are orchestrated primar	The Judiciary and the government.	In instances where indigenous peoples' rights are violated by international oil companies in relation to their environment being bastardized, normally what is expected is payment of	INACTION/LIMITED ACTION The Nigerian government and oil companies have continued to ensure that corporate social responsibility and compensation cases are not heard in the Niger Delta region. Where they have been heard the success rates in favour of the indigenous peoples	The indigenous people s who are unable to access justice are then forced to resort to street justice, hence the continuous violent conflict in the region.

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

			nment. The judges appear to be particularly timorous when it comes to protecting the rights of citizens.		ily to ensure that indigenous peoples in the Niger delta remain voiceless in their struggle for justice.		compensation to the peoples. However, the process is made extremely difficult by the judicial system. The federal government which has been shown to connive with these oil companies continues to fail in this regard by blatantly refusing to intervene	are very low.	

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

							for the protection of its citizens.		
Community leaders, outright misappropriation of funds meant for the development of indigenous territories.	Development funds meant for communities reportedly never reaching these communities.	Niger Delta indigenous communities.	Oil companies in some instances have entrusted community leaders to spearhead development projects in return for their presence in communities, but this has resulted in personal get-rich-quick schemes.	Ongoing.	Where there has been little evidence of both government and oil companies' decisions to compensate or develop the indigenous communities, although mostly through back-door means, the community leaders themselves have misappropri	Community leaders and the government.	Payments received by community leaders to aid short cuts into the communities so that oil companies and the government can proceed with or continue exploration, are pocketed before they become public knowledge.	INACTION The government does not feel obliged to intervene in cases of the misappropriation by the community leaders of funds meant for the development of the indigenous communities in the Niger Delta region.	Division between the people s in the indigenous communities, fuelling agitation and violent conflicts between community members.

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

					ated the funds meant for the people s.				
Inter-communal and ethnic wars tactfully orchestrated by the Nigerian government.	The military having to consistently justify their presence in the Niger Delta which in turn gives the government uninterrupted access to the resources on indigenous lands.	Niger Delta Indigenous communities.	Where there is unrest in the communities it prompts interventions from the government who work hand-in-hand with the oil companies to validate their oppressed filled presence in the region that will see	Ongoing.	Easy, uninterrupted access to petroleum resources brings about easy wealth. The nation and the government depend on these resources, so once petroleum is threatened not only is the government threatened, the	At the State and Federal levels of government.	Government actions that have evidenced clear intention to cause division, for example, the creation of Warri-South local government Council with headquarters in Ogbe-Ijoh. Committees set up by the government to make recommendations only ever receive data from one communi	ACTION The government orchestrates violence by the approval of projects without proper consultation. For example, the $16 Billion EPZ project, which although set to cut across two communities, was named after only	Indigenous communities being at war with each other. Projects are delayed and consequently scrapped as a result of these wars, further deterring development and increasing unrest in the region.

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

			them having exploration rights to resources without questions from intimidated community members.		cabal, corrupt leaders, and oil companies' sources of income are threatened.		ty not all (considering that communities are from different tribes), amongst others.	one community.	
Failure of the military to discharge her statutory functions to curb criminal activities strictly within best practices and rules of engagement.	The actions of the military officials deployed to the indigenous communities have evidenced the military's disregard of the sanctity of lives of innocent citizens living	Niger Delta Indigenous communities.	There are no restrictions or checks on military actions and activities on indigenous lands by the government.	Ongoing.	Under the guise of tracking down militants, who the government claim are serious threats to their own communities, military officials have been given the authority to carry	Military officials.	The government stationing an inordinate amount of soldiers in communities, with evidence of over 200 soldiers stationed at over 10 military posts occupying just the waterfront in Oporoza.	ACTION AND INACTION The government's sanction of military officials' indiscriminate bombings from the air of indigenous communities and the killing of indigenous peoples	Deaths and human rights violations of the indigenous people in the region. Violent conflicts between the people and the military officials.

APPENDIX A – INTERVIEWS AXIAL CODES.

N.B – Please disregard chart/page break, all codes represent interviews data.

	in these comm unities .				out variou s human rights violati ons, rangin g from acts of displac ement to more serious acts of genoci de.			. The cries of indigen ous peoples in the Niger Delta for justice and protecti on from the militar y remain unansw ered by the govern ment.	

APPENDIX B – DOCUMENTS AXIAL CODES.

Categories	Why	Where	How Come	When	Structure	Whom	How	Action/Inaction	Consequences of the Action/inaction
B1 Newspapers – Conflicting reports about the Niger Delta region.	Media reports, government's reasoning behind actions, and how indigenous people's accounts of events in the Niger Delta region regularly contradict one another.	The Niger Delta region.	Reports carried out by those with some interest, mostly financial, are filtered to protect the government's actions and taint the image of the indigenous people s in the region.	Ongoing.	Conflicting reports have successfully solidified the aggressive image of Niger Delta region to the general public. Reports of militancy and ethnic conflict, ignoring the underlying issues, leads other citizens of Nigeria to overlook the actual struggles faced by the people in the	The Nigerian government, media and indigenous communities' reports.	Indigenous people's interests are not really the order of the day, as they are not substantially represented in most of these reports.	ACTION Conflicting reports of fantasised facts by the media have worsened issues for the people in the region. For example, according to the media, the chief objective of suspected Niger Delta militants is to cripple oil production.	Such conflicting reports have only meant more neglect in the region, as what needs to be addressed is not accurately translated, leading to more violent conflicts and the permanent presence of the military in the region.

					region. Reasons, such as human rights violations, oppression, discrimination and refusal to acknowledge any sort of rights for indigenous people s, and why these conflicts have arisen, are often ignored in reports.				
B2 Indigenous Organisation's Official documents – Presentation of petitions and demands of Niger	The bills and charters are presented in a fashion that could justify the government's excuse	Nigeria and the Niger Delta region.	Documents such as the Kaiama Declaration 1998 presented a demand that all minera	1990 – present.	Demands not in synch with one another evidences a region that is not only divided but one	Indigenous communities in the Niger Delta region.	The language used in documents threatens indigenous people's chances of	ACTION and INACTION Different communities' presentation of their demands in documents.	Agitation in the communities, which have intensified the violent conflicts, as the peoples continue to feel that

APPENDIX B – DOCUMENTS AXIAL CODES.

Delta peoples not in synch and are open to being taken out of context.	for citing secession as a reason for ignoring indigenous demands.		ls within the Kaiama community in Bayelsa State should be controlled by the Ijaw people.		that promotes individual interests rather than collective interests as should be the case, hence demands may be taken out of context. There is a need for the people s to speak with one voice. Mixed reactions and reports following leadership meetings with the government addressing the people s'		getting the Nigerian government to recognize their collective rights as people s.	Demands, however, remain on paper, and have not been implemented or even considered by the Nigerian government.	their demands are still going unheard.

APPENDIX B – DOCUMENTS AXIAL CODES.

					grievances.				
B3 Government Official Documents – Misplaced priorities as to the purpose of official government documents.	Obvious target audience of government reports are seen to be the international communities.	The Niger Delta region and Nigeria.	Acts of human rights violations and militarization are diluted by language such as 'the Niger delta region has peculiar problems', rather than a full on addressing of the issues faced by the indigenous peoples in the region.	1958 - Ongoing.	The focus on 'proposed development' plans of the region in all government reports rather than a presentation of 'rights' which is the origin of the conflicts that have hindered development shows the governments' determination to continue oppression whilst appearing to the international	The Nigerian government.	Fact finding teams set up by the government are usually made up of those individuals in ministerial positions under high powered committees, rather than those who live in the indigenous communities.	ACTION and INACTION Reports are created, but remain unimplemented. What the government does is create more reports hence continuing a non-implementation circle.	The indigenous peoples of the Niger Delta region continue to feel neglected, prompting their decision to resort to armed violence, in a bid to gain the government's attention.

APPENDIX B – DOCUMENTS AXIAL CODES.

					community as dutiful to its people.				

APPENDIX C

LIST OF DOCUMENTS ANALYSED

Official documents derived from the State (Nigeria)

- The Willink Commission Report 1958
- The Etiebet Report 1994
- The Ogomudia Report 2001

Official documents derived from indigenous organisations

- The Ogoni Bill of Rights 1990
- The Kaiama Declaration 1998
- The Niger Delta Peoples' Compact 2008

Media Reports - Newspapers

- The Guardian Nigeria - S Awhefeada, 'Urhobo, Niger Delta and NDGJM' 27 October 2016
- Daily Trust Nigeria - A Jimoh, '10 Major Problems Nigeria will Carry Over into 2017' 24 December 2016
- Vanguard Nigeria - E Amaize, 'Militants: Buhari's Threat Tears N-Delta Leaders Apart' 3 October 2016

BIBLIOGRAPHY

Books and Chapters in Books

Abidde O S, *Nigeria's Niger Delta: Militancy, Amnesty, and the Postamnesty Environment* (Lexington Books 2017).

Ademodi I O, *The Rights and Status of Indigenous Peoples in Nigeria* (Bauu Institute and Press 2012).

Allen F, *Implementation of Oil Related Environmental Policies in Nigeria: Government Inertia and Conflict in the Niger Delta* (Cambridge Scholars Publishing 2012).

Anaya J, *Indigenous Peoples in International Law* (2nd Edition, Oxford University Press 2004).

Azaiki S, *Oil, Politics and Blood: The Niger Delta Story* (Y-Books 2006).

Birks M and Mills J, *Grounded Theory: A Practical Guide* (Sage Publications 2011).

Birks M and Mills J, *Grounded Theory: A Practical Guide* (2nd Edition, Sage Publications 2015).

Böhm A, 'Theoritical Coding: Text Analysis in Grounded Theory. In Flick U, Karddorff C and Steinke I, *A Companion to Qualitative Research* (London Sage Publications 2004).

Bryman A, *Social Research Methods* (5th Edition, Oxford University Press 2016).

Charmaz K, *Constructing Grounded Theory* (2nd Edition, Sage Publications Ltd 2014).

Charmaz K, 'Grounded Theory in the 21st Century: Applications for Advancing Social Justice Studies' in Denzin N K and Lincoln Y S (eds), *The Sage Handbook of Qualitative Research* (Thousand Oaks, Sage Publications 2005).

Charmaz K, 'Grounded Theory Methods in Social Justice Research' in Denzin N K and Lincoln Y S (eds), *Strategies of Qualitative Enquiry* (4th Edition, Sage Publications 2013).

Charmaz K, 'Reconstructing Grounded Theory' in Alasuuutari P, Bickman L and Brannen J (eds), *The Sage Handbook of Social Research Methods* (Sage Publications 2009).

Charmaz K, 'Shifting the Grounds: Constructivist Grounded Theory Methods' in Morse J M, Stern P N, Corbin J, Bowers B, Charmaz K and Clarke A E (eds), *Developing Grounded Theory: The Second Generation* (Left Coast Press 2009).

Corbin J and Strauss A, *Basics of Qualitative Research; Techniques and Procedures for Developing Grounded Theory* (4th Edition, Sage Publications 2015).

Creswell J W, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (3rd Edition, Sage Publications 2013).

Creswell J W, *Research Design: Qualitative and Quantitative Mixed Methods Approaches* (4th Edition, Sage Publications 2014).

Creswell J W and Poth C N, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (4th Edition, Sage Publications 2018).

Denscombe M, *Ground Rules for Social Research: Guidelines for Good Practice* (2nd Edition, Open University Press 2009).

Denzin N K and Lincoln Y S, *The Sage Handbook of Qualitative Research* (5th Edition, Sage Publications 2017).

Derri D K, 'Litigation Problems in Compensation Claims for Oil and Gas Operations in Nigeria' in Emiri F and Deinduomo G (eds), *Law and Petroleum Industry in Nigeria: Essays in the Honour of Justice Kate Abiri* (Malthouse Press Limited 2009).

Emeseh E, 'The Niger Delta Crisis and the Question of Access to Justice' in Obi C and Rustad S (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro-violence* (Zed books 2011).

Etemike L, 'The Struggle Against Exploitation and Marginalization: A Historical Survey of and Implications of the Uprisings and Protests in Nigeria's Niger Delta' in V Ojakorotu (ed), *Contending Issues in the Niger DeltaCrisis of Nigeria* (JAPSS Pres 2009).

Gedicks A I, *Resource Rebels: Native Challenges to Mining and Oil Corporations* (Southend Press 2001).

Gibson B and Hartman J, *Rediscovering Grounded Theory* (Sage Publications 2014).

Glaser B and Strauss A, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Aldine Transaction 1967 2012).

Grbich C, *Qualitative Data Analysis: An Introduction* (2nd Edition, Sage Publications 2013).

Guba E G and Lincoln Y S, 'Competing Paradigms in Qualitative Research' in Denzin N K and Lincoln Y S (eds), *Handbook of Qualitative Research* (Thousand Oaks Sage 1994).

Jupp V, *The Sage Dictionary of Social Research Methods* (Sage Publications 2013).

Kuku K, *Remaking the Niger Delta: Challenges and Opportunities* (Mandingo Publishing 2012).

Lichtman M, *Qualitative Research for the Social Sciences* (Sage Publications 2014).

Mertens D M, *Transformative Research and Evaluation* (The Guilford Press 2009).

Mertens D M and Holmes H M and Harris R L, 'Transformative Research and Ethics' in Mertens D M and Ginsberg P E (eds), *The Handbook of Social Research Ethics* (Sage Publications 2009).

Mertens D M and Sullivan M and Stace H, 'Disability Communities: Transformative Research for Social Justice' in Denzin N K and Lincoln Y S (eds), *The Landscape of Qualitative Research* (4th Edition, Sage Publications 2013).

Metzler K, *An Introduction to Qualitative Research UWE Flick* (5th Edition, Sage Publications 2014).

Ndahinda F, 'Historical Development of Development of Indigenous Identification and Rights in Africa' in Laher R and Sing'Oei K (eds), *Indigenous People in Africa: Contestations, Empowerment and Group Rights* (Africa Institute of South Africa 2014).

Obi C and Rustad A S, *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro Violence* (Zed Books 2010).

Odje A M, *Lectures on Niger Delta, Human Rights and the 1999 Constitution* (Crown of Splendour 2016).

Ojakorotu V and Olawale O, 'Understanding the Niger Delta Conflict: Matters Arising' in Ojakorotu V (ed), *Contending Issues in the Niger Delta Crisis of Nigeria* (JAPSS Pres 2009).

Okonta I and Douglas O, *Where Vultures Feast* (Crown Publishers 2003).

Oluduro O, *Oil Exploitation and Human Rights Violations in Nigeria's Oil Producing Communities* (Intersentia Publishing Ltd 2014).

Omorogbe Y, *Oil and Gas Law in Nigeria* (Malthouse Law Books 2001).

Partington M, 'Empirical Legal Research and Policy-Making' in Cane P and Kritzer H (eds), *The Oxford Handbook of Empirical Legal Research* (Oxford University Press 2010).

Quane H, 'New Directions for Self-Determination and Participatory Rights', in Allen S and Xanthaki A (eds), *Reflections on the UN Declaration on the Rights of Indigenous Peoples* (Sage Publishing 2011).

Rawls J, 'A Theory of Justice' (The Belknap Press of Harvard University Press 1973) 4 http://faculty.ycp.edu/~dweiss/phl221_intro/Rawls%27%20A%20Theory%20of%20Justice%20selections%20annotated.pdf.

Saldana J, *The Coding Manual for Qualitative Researchers* (3rd Edition, Sage Publication 2016).

Silverman D, *Doing Qualitative Research* (4th Edition, Sage Publications 2013).

Silverman D, *Qualitative Research* (4th Edition, Sage Publications 2016).

Stern P N, 'In the Beginning Glaser and Strauss Created Grounded Theory' in Morse J M, Stern P N, Corbin J, Bowers B, Charmaz K and Clarke A E (eds), *Developing Grounded Theory: The Second Generation* (Left Coast Press 2009).

Strauss A and Corbin J, *Basics of Qualitative Research: Techniques and Procedures for developing Grounded Theory* (Sage Publications 1998).

Tamuno T N, *Oil Wars in the Niger Delta 1849-2009* (Stirling-Horden Publishers Ltd 2011).

Tareri A, 'A Rights Based Approach to Indigenous Minorities: Focus on the Urhobo and Ogoni Peoples of the Niger Delta' in Emiri F and Deinduomo G (eds), *Law and Petroleum Industry in Nigeria: Essays in the Honour of Justice Kate Abiri* (Malthouse Press Limited 2009).

Ukeje C,'Changing the Paradigm of Pacification: Oil and Militarization in Nigeria's Delta Region' in Obi C and Rustad S A (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro Violence* (Zed Books 2011).

Walliman N, *Social Research Methods* (2nd Edition, Sage Publications 2016).

Webley L 'Qualitative Approaches to Empirical Legal Research' in Cane P and Kritzer (eds), *The Oxford Handbook of Empirical Legal* (Oxford University Press 2010).

Witkin S L, 'An Integrative Human Rights Approach to Social Research' in Truman C, Mertens D and Humphries B (eds) *Research and Inequality* (UCL Press London 2000).

Journal Articles

Aaron K K, 'Perspective: Big Oil, Rural Poverty, and Environmental Degradation in the Niger Delta Region of Nigeria' (2005) 11(2) J Agric Saf Health 127.

Aberbach J D, 'Conducting and Coding Elite Interviews' (2002) 35(4) Political Science and Politics 673.

Agboufa M K, 'John Rawls' Maximin Principle: Implications for Distributive Justice in the Niger Delta Region' (2016) 5(6) International Journal of Innovative Research and Development 378.

Ajiboye O E, Jawando J O and Adisa W B, 'Poverty, Oil Exploration and the Niger Delta Crisis: The Response of the Youth' (2009) 3(5) African Journal of Political Science and International Relations 224.

Aladeitan L, 'Ownership and Control of Oil, Gas, and Mineral Resources in Nigeria: Between Legality and Legitimacy' (2013) 38 Thurgood Marshall Law Review 159.

Aka P C, 'Bridging the Gap Between Theory and Practice in Humanitarian Action: Eight Steps to Humanitarian Wellness in Nigeria' (2016) 24(1) Willamette Journal of International Law and Dispute Resolution 1.

Akporowho P, 'Environmental Protection: A Critical Ingredient for Peace Building in Nigeria' (2016) 3(1) Peace and Environment Africa Journal 275.

Ama-Oji E E, 'Legal Protection of the Environment in Times of Armed Conflict' (2005) 3(4) Environmental and Planning Law Review 100.

Alemu G, Stevens B, Ross P and Chandler J, 'The Use of Constructivist Grounded Theory Method to Explore the Role of Socially-Constructed Metadata (Web 2.0) Approaches' (2015) 4 Qualitative and Quantitative Methods in Libraries 517.

Barelli M, 'Shaping Indigenous Self-Determination: Promising or Unsatisfactory Solutions' (2011) 13 International Community Law Review 413.

Baylis E, 'Empirical Approaches to International law: The Transformative Potential of Rigorous Empirical Research' (2010) 104 American Society of International Law 31.

Bellier I and Preaud M, 'Emerging Issues in Indigenous Rights: Transformative Effects of the Recognition of Indigenous Peoples' (2011) 16(3) International Journal of Human Rights 474.

Berry J M, 'Validity and Reliability Issues in Elite Interviewing' (2002) 35(4) Political Science and Politics 679.

Bisina A and Bisina J D, 'Rights-Based Approach to Resolving Environmental Conflicts: AN Evaluation of the Implementation of the United Nations (UN) Guiding Principles and Voluntary Principles on Security and Human Rights in Africa. (2016) 3(1) Peace and Environment Africa Journal 71.

Boucher A, Mahboob A and Dutcher L, 'Power and Solidarity in Elite Interviews' Paper for the American Political Science Association General Meeting 2013 Chicago 1.

Bowen G, 'Document Analysis as a Qualitative Research Method' (2009) 9(2) Qualitative Research Journal 27.

Boyd C L, 'In Defense of Empirical Legal Studies' (2015) 63 Buffalo Law Review 363.

Burden J and Roodt G, 'Grounded Theory and its Application in a Recent Study on Organizational Redesign: Some Reflections and Guidelines' (2007) 5(3) Journal of Human Resource Management 11.

Carew K S A, 'David and Goliath: Giving the Indigenous Peoples of the Niger Delta a Smooth Pebble-Environmental Law, Human Rights, and Re-defining the Value of Life' (2002) 7 Drake Journal of Agricultural Law 493.

Castellino J and Gilbert J, 'Self-Determination, Indigenous Peoples and Minorities' (2003) 3 Macquarie Law Journal 155.

Charmaz K, 'The Power and Potential of Grounded Theory' (2012) 6(3) A Journal of the BSA MedSoc Group 1.

Cho J Y and Lee E-H, 'Reducing Confusion about Grounded Theory and Qualitative Content Analysis: Similarities and Differences' (2014) 19(64) The Qualitative Report 1.

Christensen C M, 'The Ongoing Process of Building a Theory of Disruption' (2006) 23 The Journal of Product Innovation Management 39.

Collier P and Hoeffler A, 'Greed and Grievance in Civil War' (2004) 56 Oxford Economic Papers 563, 563

Corntassel J, 'Re-envisioning Resurgence: Indigenous Pathways to Decolonization and Sustainable Self-Determination' (201) 1(1) Indigeneity, Education and Society 86.

Corntassel J and Hopkins Primeau T, 'Indigenous "Sovereignty" and International Law: Revised Strategies for Pursuing "Self-Determination"' (2005) 17(2) Human Rights Quarterly 343.

Coulter T R, 'The Law of Self-Determination and the United Nations Declaration on The Rights of Indigenous Peoples' (2010) 15(1) UCLA Journal of International Law and Foreign Affairs 13.

Crommelin M, 'Mineral Exploration in Australia and Western Canada' (1987) 9 Journal of Energy and Natural Resources Law 3.

Cropp N, 'The Social Utility of Rawls' Theory of Justice: Can it help us to avoid Unjust Systems?' (1998) UCL Jurisprudence Review 188.

Dada J A, 'Human Rights Under the Nigerian Constitution: Issues and Problems' (2012) 2(12) International Journal of Humanities and Social Science 33.

Dunne C, 'The Place of Literature Review in Grounded Theory Research' (2011) 14(2) International Journal of Social Research Methodology 111.

Ebeku K S A, 'Oil, Niger Delta and the New Development Initiative: Some reflections from Socio-Legal Perspective' (2007) 19(1) Sri Lanka Journal of International Law 1.

Egede E, 'Bringing Human Rights Home: AN Examination of the Domestication of Human Rights Treaties in Nigeria' (2007) 51(2) Journal of African Law 249.

Emeseh E, 'Limitations of Law in Promoting Synergy Between Environment and Development Policies in Developing Countries: A Case Study of the Petroleum Industry in Nigeria' (2006) 24(4) Journal of Energy and Natural Resources Law 574.

Engle K, 'ON Fragile Architecture: The UN Declaration on the Rights of Indigenous Peoples in the Context of Human Rights' (2011) 22(1) The European Journal of International Law 141.

Epstein L and King G, 'The Rules of Inference' (2002) 69(1) The University of Chicago Law Review 1.

Ezetah C R, 'International Law of Self-Determination and the Ogoni Question: Mirroring Africa's Post-Colonial Dilemma' (1997) 19 Loy. L.A. Int'l and Comp. L.J. 811.

Fan H, 'The Missing Link Between Self-Determination and Democracy: The Case of East Timor' (2008)6(1) Northwestern Journal of International Human Rights 176.

Fischman J B, 'Reuniting 'is and ought' in Empirical Legal Scholarship' (2013) 162 University of Pennsylvania Law Review 117.

Fortney S S, 'Taking Empirical Research Seriously' (2009) 22 The Georgetown Journal of Legal Ethics 1473.

Frost, N, Nolas S, Brooks-Gordon B, Esin C, Holt A, Mehdizadeh L and Shinebourne P, 'Pluralism in Qualitative Research: The Impact of Different Researchers and Qualitative Approaches on the Analysis of Qualitative Data' (2010) 10(4) Qualitative Research Sage Publications 1.

Gayim E, 'The United Nations Law on Self-Determination and Indigenous Peoples' (1982) 51(1) Nordic Journal of International Law 53.

Giles T, King L and Lacey S, 'The Timing of Literature Review in Grounded Theory Research: An Open Mind Versus an Empty Head' (2003) 36(2) Advances in Nursing Research 29.

Glaser B G and Holton J, 'Remodelling Grounded Theory' (2004) 5(2) Qualitative Social Research 1.

Giordano M F, Giordano M A and Wolf A T, 'International Resource Conflict and Mitigation' (2005) 42(1) *Peace Research* 51.

Golafshani N, 'Understanding Reliability and Validity in Qualitative Research' (2003) 8(4) The Qualitative Report 597.

Goldkuhl G and Cronholm S, 'Adding Theoretical Grounding to Grounded Theory: Toward Multi-Grounded Theory' (2010) 9(2) International Journal of Qualitative Methods 63.

Goldsmith J and Vermeulet A, 'Empirical Methodology and Legal Scholarship' (2002) 69 The University of Chicago Law Review 69.

Gordon R W, 'Lawyers, Scholars, and the 'Middle Ground'' (1993) Michigan Law Review 2075.

Gover K, 'Settler-State Political Theory 'CANZUS' and the UN Declaration on the Rights of Indigenous Peoples' (2015) 26(2) The European Journal of International Law 345.

Grant M A, 'Analysis and Description of Olympic Gold Medalists' Competition-Day Routines' (2013) 27 The Sports Psychologist 156.

Halaweh M, 'Integration of Grounded Theory and Case Study: An Exemplary Application from e-Commerce Security Perception Research' 2012 13(1) Journal of Information Technology Theory and Application 31.

Heise M, 'The Past, The Present, and Future of Empirical Legal Scholarship: Judicial Decision Making and the New Empirism' (2002) 733 Cornell Law Faculty Publications 819.

Hofisi C, Hofisi M and Mago S, 'Critiquing Interviewing as a Data Collection Method' (2014) 5(16) Mediterranean Journal of Social Sciences 60.

Holton J A, 'The Coding Process and its Challenges' (2010) 9(1) An International Journal 265.

Human Rights Watch, 'The Niger Delta: No Democratic Divedend' (2008) 3(16) Environmental and Planning Law Review 81.

elegbe A, 'Civil Society, Oil and Conflict in the Niger Delta Region of Nigeria: amifications of Civil Society for a Regional Struggle' (2001) 39(3) Journal of Modern frican Studies 437.

ohn E O, 'A Critique of John Rawls' Social Justice Theory and the Fate of Nigeria's Politics n the 21st-Century and Beyond' (2014) 28 Journal of Law, Policy and Globalization 12.

ones M and Alony I, 'Guiding the Use of Grounded Theory in Doctoral Studies – An Example from the Australian Film Industry' (2011) 6 International Journal of Doctoral Studies 95.

Khan S N, 'Qualitative Research Method: Grounded Theory' (2014) 9(11) International Journal of Business and Management 224.

Kingsbury B, 'Reconciling Five Competing Conceptual Structures of Indigenous People's Claims in International and Comparative Law' (2002) 13(59) Journal of International Law land Politics 89.

Kolb S M, 'Grounded Theory and the Constant Comparative Method: Valid Research Strategies for Educators' (2012) 3(1) Journal of Emerging Trends in Educational Research and Policy Studies 83.

Krauss S T, 'Research Paradigms and Meaning Making: A Primer' (2005) 10(4) The Qualitative Report 758.

Larossa R, 'Grounded Theory Methods and Qualitative Family Research' (2005) 67 Journal of Marriage and Family 837.

awrence J and Tar U, 'The Use of Grounded Theory Technique as a Practical Tool for ualitative Data Collection and Analysis' (2013) 11(1) Electronic Journal of Business esearch Methods 29.

isle J D, 'The Benefits and Challenges of Mixing Methods and Methodologies: Lessons earnt from Implementing Qualitatively Led Mixed Methods Research Designs in Trinidad nd Tobago' (2011) 18 Caribbean Curriculum 87.

Manby B, 'The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities' (2005) 1(2) Environmental and Planning Law Review 9.

McGinley M, 'Niger Delta Swamp Forests' (2008) 3(16) Environmental and Planning Law Review 49.

Mertens D M, 'Transformative Mixed Methods: Addressing Inequities' (2012) American Behavioral Scientist Published Online 1.

Mertens D M, 'Transformative Paradigm: Mixed Methods and Social Justice' (2007) 1 Journal of Mixed Methods Research 212.

Mills J, Bonner A and Francis K, 'The Development of Constructivist Grounded Theory' (2006) 5(1) International Journal of Qualitative Methods 1.

Murphy J, 'Extending Indigenous Rights by Way of the African Charter' (2012) 24 Peace International Law Review 158.

Nelson J, 'Navigating Grounded Theory: A Critical and Reflective Response to the Challenges of Using Grounded Theory in an Education PhD' (2015) 4 Critical and Reflective Practice in Education 18.

Nelson J, 'Using Conceptual Depth Criteria: addressing the challenge of reaching saturation in qualitative research' (2016) Qualitative Research Queen's University Belfast 1.

Norman M L, 'The Challenges of State Building in Resource Rich Nations' (2012) 10(3) Northwestern Journal of International Human Rights 173.

Nkoro E, 'Conflict in the Niger Delta: The Way Forward' (2008) 3(16) Environmental and Planning Law Review 163.

Oba A A, 'The African Charter on Human and Peoples' Rights and Ouster Clauses Under the Military Regimes in Nigeria: Before and After September 11' (2004) 4 African Human Rights Law Journal 275.

Obi C, 'Resource Control in Nigeria's Niger Delta' (2008) 3(16) Environmental and Planning Law Review 69.

Oguamanam C, 'Indigenous Peoples' Rights at the Intersection of Human Rights and Intellectual Property Rights' (2014) 18(2) Marquette Intellectual Property Law Review 261.

Ojakorotu V, 'The Internationalization of Oil Violence in the Niger Delta of Nigeria' (2008) 7(1) Turkish Journal of International Relations 92.

Ojefia I A, 'The Nigerian State and the Niger Delta Question' (2008) 3(16) Environmental and Planning Law Review 1.

Okonmah P D, 'The 'Judicial' Murder of Nine Environmental and Human Rights Activists in Nigeria and the Implications for the Enjoyment of Human Rights in Nigeria' (1999) 7 Tilburg Foreign Law Review 393.

Okumagba P O, 'Militancy and Human Rights Violation in the Niger Delta' (2012) 3(2) International Review of Social Sciences and Humanities 28.

Owen O, 'The Contested Rights of the Niger Delta' (2008) 3(16) Environmental and Planning Law Review 63.

Pelican M, 'The Indigenous Rights Movement in Africa: Perspectives from Botswana and Cameroon' (2015) 36(1) African Study Monographs 49.

Pentassuglia G, 'Indigenous Groups and the Developing Jurisprudence of the African Commission on Human and Peoples' Rights: Some Reflections' (2010) 3 UCL Human Rights Review 150.

Priest H and Roberts P and Woods L, 'Qualitative Approaches: An Overview of Three Different Approaches to the Interpretation of Qualitative Data. Part 1: Theoretical Issues' (2002) 10(1) Nurse Researcher 30.

Quigley W P, 'Letter to a Law Student Interested in Social Justice' (2007) 1(1) DePaul Journal for Social Justice 7.

Ralph N, Birks M and Chapman Y, 'Contextual Positioning: Using Documents as Extant Data in Grounded Theory Research' (2014) Sage and Open Access Page 1.

Ramalho R, Adams P, Huggard P and Hoare K, 'Literature Review and Constructivist Grounded Theory Methodology' (2015) 16(3) Qualitative Social Research 1.

Redman-Maclaren M and Mills J, 'Transformational Grounded Theory: Theory, Voice and Action' (2015) 14(3) International Journal of Qualitative Methods 1.

Revesz R L, 'Defense of Empirical Legal Scholarship' (2012) 69 The University of Chicago Law Review 169.

Rhuks A and Oluduro O, 'Identifying Beneficiaries of the Un-Indigenous Peoples' Partnership (UNIOO): The Case of the Indigenes of Nigeria's Delta Region' (2014) 22(3) African Journal of International and Comparative Law 374.

Romm N R A, 'Exploration of Transformative Paradigm with Pragmatic Twist to Contribute to Educational Change' 2014 5(2) International Journal on New Trends in Education and Their Implications 134.

Romm N R A, 'Reviewing the Transformative Paradigm: A Critical Systemic and Relational (Indigenous) Lens' (2015) 28 System Practice Action Research 411.

Roos S R, 'Development Genocide and Ethnocide: Does International Law Curtail Development-Induced Displacement through the Prohibition of Genocide and Ethnocide?' (2002) 9(3) Human Rights Brief 14, 14.

Sargent S and Melling G, 'Indigenous Self-Determination: The Root of State Resistance' (2012) 24 Denning Law Journal 117.

Scott K W, 'Clarifying Analysis and Interpretation in Grounded Theory: Using a Conditional Relationship Guide and Reflective Coding Matrix' (2008) 5 Occupational Science and Occupational Therapy Faculty and Staff Research 1.

Scott K W, 'Relating Categories in Grounded Theory Analysis: Using a Conditional Relationship Guide and Reflective Coding Matrix' (2004) 9(1) Qualitative Report 113.

Strauss J and Corbin A, 'Grounded Theory Research: Procedures, Canons and Evaluative Criteria' (1990) 13(1) Qualitative Sociology 3.

Suddaby R, 'From the Editors: What Grounded Theory is Not' (2006) 49(4) Academy of Management Journal 633.

Sweetman D, Badiee M and Creswell J W, 'Use of Transformative Framework in Mixed Methods Studies' (2010) 16 Qualitative Inquiry in Sage Publications 441.

Udofia D, 'Good Governance, Violent Conflicts and National Security in Nigeria' (2016) 3(1) Peace and Environment Africa Journal 312, 313.

Udombana N J, 'Toward the African Court on Human and Peoples' Rights: Better Late Than Never' (2014) 3(2) Yale Human Rights and Development Journal 45.

Ukeje C and Adebanwi W, 'Ethno-nationalist Claims in Southern Nigeria: Insight from Yoruba and Ijaw Nationalism Since the 1900' (2008) 31(3) Ethnic and Racial Studies 563.

Ukiwo U, 'From 'Pirates' to 'Militants': A Historical Perspective on Anti-State and Anti-Oil Company Protests in the Western Niger Delta: The Case of the Ijaw of Warri' (2007) 106 African Affairs 587.

Usoro A A, Ekpenyong O E and Effiong C, 'Conflict Management: The Nigerian Government's Strategies and the Question of Enduring Peace' (2014) 3(2) Business and Management Research 138.

Webb C, 'The Use of the First Person in Academic Writing: Objectivity, Language and Gatekeeping' (1992) 17(6) Journal of Advanced Nursing 747.

Wesley R S and Mello J E, 'Grounded Theory: An Inductive Method for Supply Chain Research' (1990) International Journal of Physical Distribution and Materials Management 1.

Yarwood-Ross L and Jack K, 'Using Extant Literature in a Grounded Theory Study: A Personal Account' (2015) 22(4) *PubMed.gov* 18 https://www.ncbi.nlm.nih.gov/pubmed/25783148.

Zeiler K, 'The Future of Empirical Legal Scholarship: Where Might We Go from Here?' (2016-2017) 66 Journal of Legal Education 78.

Newspaper Articles (Hard and Soft Copies)

Abolarin E, 'N/Delta: Indigenous Peoples Clamour for Recognition' *The Nation Newspaper* (Nigeria, 13 June 2016).

Addeh E, 'Jonathan Inaugurates Multibillion Dollar Delta Gas Project' *The Nigerian Times* (Nigeria March 2015).

Amaize E, 'Army, Navy Shoot 14 in Delta Communities, 3 Residents Missing' *Vanguard* (Nigeria, 26 November 2016).

Amaize E, 'Militants: Buhari's Threat Tears N-Delta Leaders Apart' *Vanguard* (Nigeria, 3 October 2016).

Amaize E, 'Outburst Against Osibanjo: Bini, Itsekiri, Urhobo Leaders Tackle Dokubo-Asari' *Vanguard* (Nigeria, 8 April 2017).

Anonymous, 'Army to Deploy 10,000 Soldiers in Niger Delta' *Punch* (Nigeria, September 2016).

Anonymous, 'FG, Seeks Stakeholders Collaboration on Niger Delta Development' *Vanguard* (Nigeria, 30 May 2017).

Agbodion J, 'Tompolo decries militarisation of Gbaramatu Kingdom' *Today.ng* (2016) https://www.today.ng/news/national/136393/tompolo-decries-militarisation-gbaramatu-kingdom.

Awhefeada S, 'Urhobo, Niger Delta and NDGJM' *The Guardian* (Nigeria, 27 October 2016).

Chilee N F, 'Non-Implementation of Report: The Case for Niger Delta Technical Committee Report' *The Nigerian Voice* (Nigeria, 26 August 2009).

Ebuzor C, 'Militants Attack Fulani Herdsmen, Threaten to Cripple Nigeria's Economy' *Pulse* (Nigeria, 26 April 2016).

Editorial Board, 'On the 13 Percent Derivation Fund' *The Guardian* (Nigeria, 6 December 2016).

Ewepu G, 'Military Invasion of Gbaramatu Kingdom Unacceptable – NDYF' *Vanguard* (Nigeria, May 2016).

Jimoh A, '10 Major Problems Nigeria will Carry Over into 2017' *Daily Trust* (Nigeria, 24 December 2016).

Goodwin M, 'How Academics Can Engage with Policy: 10 Tips for a Better Conversation' *Guardian* (United Kingdom, March 2013).

'Niger Delta Villagers Lose UK Court Bid to Sue Shell Over Pollution' *BBC* (United Kingdom, January 2016) http://www.bbc.co.uk/news/world-africa-38759643.

Nigerian Army Launches Niger Delta Offensive, Kills '5 Militants' *Premium Times* (Nigeria, 27 August 2016).

Njoku J, 'Land Use Act: A Monster Crippling Housing Development' *Vanguard* (Nigeria, 12 December 2012).

O'Neil S, 'Niger Delta Militants Attack More Oil Facilities' *Sahara Reporters* (Nigeria, 17 January 2016).

Odje A M, '13% Derivation, Falling Crude Oil Price and the Constitution' *Vanguard* (Nigeria, February 2016).

Ogheneochuko S, 'How N'Delta Governors Mismanage 13% Derivation Fund… Allegedly Embezzle N8.1tr Within 13yrs' *Urohbo Today* (Nigeria, 22 December 2013).

Oluwalana S and Akenzuwa O, 'Implement Past Reports on Niger Delta, INC tells Government' *The Guardian* (Nigeria, 7 November 2016).

Omonigho M, 'Gbaramatu is Peaceful – US Consul General Declares' *Daily Post* (Nigeria, 1 February 2017).

Otobo D, 'Oil Wells, Niger Delta and all that…' *The Guardian* (Nigeria, 19 January 2017).

Polygreem L, 'Blood Flows with Oil in Poor Nigerian Villages' *The New York Times* (New York, 1 January 2006).

'Tompolo decries militarisation of Gbaramatu Kingdom' (2016) https://www.today.ng/news/national/136393/tompolo-decries-militarisation-gbaramatu-kingdom.

Soniyi T, 'Niger Delta Gives Buhari 16 Conditions for Peace' *This Day Nigeria* (Nigeria, 2 November 2016).

Wakili I, Adugbo D and Edozie V, 'Buhari, Niger Delta Leaders Meet Today' *Daily Trust* (Nigeria, 1 November 2016).

Yafugborhi E, 'Nigeria: How not to Incite Oil Communities' *Vanguard* (Nigeria, 13 April 2017).

Working Papers

Brown G K and Stewart F, 'Economic and Political Causes of Conflict: An Overview and Some Policy Implications' (February 2015) CRISE Working Paper No. 81 1 http://www3.qeh.ox.ac.uk/pdf/crisewps/workingpaper81.pdf

Cervenka Z, 'The Effects of Militarization of Africa on Human Rights' (June 1987) Paper Submitted to the Conference on Human Rights: The African Context, Port Harcourt, Nigeria 2.

Daes E A, 'Prevention of Discrimination and Protection of Indigenous Peoples and Minorities: Indigenous Peoples and Their Relationship to Land' (Working Paper for Working Group on Indigenous Populations, June 2001, E/CN.4/Sub.2/2001/21).

Human Rights Watch, 'The Price of Oil: Corporate Responsibility and Human Rights Violation in Nigeria's Oil Producing Communities' (1999, Human Rights Watch, Washington DC, ISBN: 1-56432-225-4, 112).

Ojefia I O, 'The Nigerian State and he Niger Delta Question' (2004) A Paper for the 22nd Annual Conference of the Association of Third World Studies, America, Georgia, USA http://nigeriaworld.com/articles/2004/sep/071.html.

Stewart F, 'Horizontal Inequalities as a Cause of Conflict: A Review of CRISE Findings' (20 August 2010) World Development Report 2011: Background Paper 2 http://siteresources.worldbank.org/EXTWDR2011/Resources/6406082-1283882418764/WDR_Background_Paper_Stewart.pdf.

The African Commission's Work on Indigenous Peoples in Africa, 'Indigenous Peoples in Africa: The Forgotten Peoples?' 2006 ACHPR and IWGIA 1.

Miscellaneous

Abdullah M, 'The Right to Self-Determination in International Law: Scrutinizing the Colonial Aspect of the Right to Self-Determination' (Master Thesis, University of Goteborg 2006) 32 https://gupea.ub.gu.se/bitstream/2077/1888/1/gupea_2077_1888_1.pdf.

Ako R, 'Resource Control in the Niger Delta: Conceptual Issues and Legal Realities.' (May 2012) http://www.e-ir.info/2012/05/25/resource-control-in-the-niger-delta-conceptual-issues-and-legal-realities/.

Amnesty International, 'Nigeria: Rape – The Silent Weapon' (28 November 2016) https://www.amnesty.org/en/documents/AFR44/020/2006/en/.

Amnesty International, 'The State of the World's Human Rights' 2016/17, 279 https://www.amnesty.org/en/latest/research/2017/02/amnesty-international-annual-report-201617/.

Amunwa B and Minio M, 'Counting the Cost Corporations and Human Rights Abuses in the Niger Delta' (October 2011) http://platformlondon.org/nigeria/Counting_the_Cost.pdf?utm_medium=email&utm_campaign=Nigeria+report&utm_content=Nigeria+report+CID_6addf4ad4ab7379a0625f65cb36b120e&utm_source=campaign+monitor&utm_term=new+report.

Ayroso D, 'First UN Conference on Indigenous Peoples Mum on Self-determination, State Violence' (29 September 2014) http://www.democraciaycooperacion.net/espacio-colaborativo/asia-pacific/your-documents-attached-to-the/article/first-un-conference-on-indigenous.

Campbell K, 'Bringing Peace to the Niger Delta' (1 June 2008) United States Institute of Peace https://www.usip.org/publications/2008/06/bringing-peace-niger-delta.

Carlile P R, 'The Cycles of Theory Building in Management Research' 3 http://www.hbs.edu/faculty/publication%20files/05-057.pdf.

Centre for Ageing Research and Development in Ireland, '10 Guidelines for Writing Policy Recommendation' http://www.cardi.ie/userfiles/Fact%20sheet%20%28web%29.pdf.

Cheeka D, 'Nigeria: Militants; Armed Forces; Innocent Victims' (September 2009) http://www.marxist.com/nigeria-militants-armed-forces-niger-delta.htm.

Development Genocide' September 2009 Peace Action Montgomery https://peaceactionmc.wordpress.com/2009/09/14/developmental-genocide/.

Ezeocha C I, 'Consequences of the Niger Delta Amnesty Program, Implementation on Nigeria's Upstream Petroleum Industry' 2016 Walden Dissertations and Doctoral Studies 1 http://scholarworks.waldenu.edu/dissertations/3158/.

Hochschild J, 'Conducting Intensive Interviews and Elite Interviews' (2009) Workshop on Interdisciplinary Standards for Systematic Qualitative Research http://scholar.harvard.edu/jlhochschild/publications/conducting-intensive-interviews-and-elite-interviews.

Human Rights Watch, 'The Kaiama Declaration' 1998 https://www.hrw.org/reports/1999/nigeria2/Ngria993-02.htm.

Ikelegbe A and Umukoro N, 'The Amnesty Programme and the Resolution of the Niger Delta Crisis: Progress, Challenges and Prognosis' (2016) 14 CPED Monograph Series.

Impact of the African Charter on Domestic Human Rights in Africa' http://www.achpr.org/instruments/achpr/impact-on-domestic-human-rights/.

International Crisis Group, 'Curbing Violence in Nigeria (III): Revisiting the Niger Delta' 29 September 2015 Report Number 231 https://www.crisisgroup.org/africa/west-africa/nigeria/curbing-violence-nigeria-iii-revisiting-niger-delta.

Kezar A, 'Transformational Elite Interviews: Principles and Problems' 2003 9(3) Sage Publications 395-415 http://observatory-elites.org/wp-content/uploads/2012/06/feminist_narrative_interviewing.pdf.

Kingsbury K, 'Self-Determination and Indigenous Peoples.' ASIL Proceedings. April 3 1992.

Liusvaara L, 'Grounded Theory in a Case Study – Questions of Generalizing Outcomes' http://www.lawpoint.fi/artikkeleja/6.

Militarization: Global, Regional and National http://nautilus.org/wp-content/uploads/2011/12/Chapter-2.pdf.

MOSOP, 'The Ogoni Bill of Rights' 1990 http://www.bebor.org/wp-content/uploads/2012/09/Ogoni-Bill-of-Rights.pdf.

Newsom C, 'Conflict in the Niger Delta: More than a Local Affair' June 2011 United States Institute of Peace Special Report 1, 1 https://www.usip.org/sites/default/files/Conflict_Niger_Delta.pdf.

Ogunlade A, 'Petroleum Exploitation and Indigenous Peoples Rights in Nigeria: Can the International Labour Organization help?' University of Dundee https://www.scribd.com/document/71215319/Petroleum-Exploitation-and-Indigenous-Peoples-Rights-in-Nigeria.

'Oil Divides: Rebuilding Peace in the Niger Delta' October 2015 http://www.stakeholderdemocracy.org/oil-divides-rebuilding-peace-in-the-niger-delta/.

Osaghae E, Ikelegbe A, Olarinmoye O and Okhomina S, 'Youth Militias, Self Determination and Resource Control Struggles in the Niger Delta Region of Nigeria' (2008) Research Report Consortium for Development Partnerships (CPP) 1.

Sargent S, 'The Best Interests of the Child In Intercountry Adoption: A Constructivist and Comparative Account' (Dphil Thesis, De Montfort University October 2009) https://www.dora.dmu.ac.uk/bitstream/handle/2086/3535/Sargent,%20Sarah%20PhD.pdf?sequence=1.

Strategies for Conducting Elite Interviews' https://ore.exeter.ac.uk/repository/bitstream/handle/10871/16200/Qualitative%20Research.pdf?sequence=6.

Tarr C, '21st Century 'Resource Control' Insurgencies: The Case of the Niger Delta.' October 2011 http://www.e-ir.info/2011/10/09/21st-century-resource-control-insurgencies-the-case-of-the-niger-delta/#_ftn20 accessed.

The Grounded Theory Method of Analysis in the Home/Work Study http://www.lancaster.ac.uk/fass/projects/homework/Docs/Strand%202-Grounded%20theory%20Data%20Analysis.pdf.

The Technical Committee on the Niger Delta, 'Reports of the Technical Committee on the Niger Delta' 2008 Volume 1 http://www.waado.org/NigerDelta/niger_delta_technical_com/NigerDeltaTechnicalReport.pdf.

The WIllink Commission Report; Conclusions and Recommendations http://eie.ng/wp-content/uploads/2014/03/TheWillinkCommissionReport_conc_recom_lt.pdf.

Wachira G M, 'African Court on Human and Peoples' Rights: Ten Years on and Still no Justice' (2008) Minority Rights Group International 13 http://minorityrights.org/wp-content/uploads/old-site-downloads/download-540-African-Court-on-Human-and-Peoples-Rights-Ten-years-on-and-still-no-justice.pdf.

Tolstykh V , 'Three Ideas of Self-Determination in International Law and the Reunification of Crimea with Russia' (2015) http://www.zaoerv.de/75_2015/75_2015_1_a_119_140.pdf.

Zartman I W, 'Ripeness: The Importance of Timing in Negotiation and Conflict Resolution' (20 December 2008) E-International Relations http://www.e-ir.info/2008/12/20/ripeness-the-importance-of-timing-in-negotiation-and-conflict-resolution/.

Statutes and Statutory Instruments

The 1963 Constitution of Nigeria.

The 1999 Constitution of the Federal Republic of Nigeria.

The Petroleum Act 1969.

The Land Use Act 1978.

Legal Instruments

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

International Covenant on Economic Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR).

African Charter on Human and Peoples' Rights (Banjul Charter) (adopted 27 June 1981, entered into force 21 October 1986) CAB/LEG/67/3 rev.5, 21 I.L.M. 58.

UN Declaration on the Rights of Indigenous Peoples, A/61/295 (2007) http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

Legal Decisions

Abioye v Yakubu (1991) 5 NWLR.

Centre for Minority Rights Development (Kenya) and Minority Rights Group International on Behalf of Endorois Welfare Council v Kenya (276/2003).

Fawehinmi v Abacha (1996) 9 NWLR (Pt 475) 710, 747.

Oronto Douglas v Shell Petroleum Company Ltd and Others (1997) Federal High Court of Lagos Suit no. FHC/L/CS/573/96.

Reinsurance Corp v Fantaye 1986) 1 NWLR (Pt14) 113.

The Lubicon Lake Band Case, Communication 167/1984 U.N. Doc CCPR/38/D/167/1984 (March 28, 1990).

Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v Nigeria. Communication No. 155/96.

Websites

<http://www.2014ar.org/images/WhereWeWorkMap.png>

<http://www.academia.edu/394211/Chapter_38_Qualitative_Approaches_to_Empirical_Legal_Research>

<http://bayelsanewsonline.blogspot.co.uk/2010/12/ayakoromo-massacre-true-story.html>

<http://www.claiminghumanrights.org/nigeria.html>

<http://www.grin.com/de/e-book/110776/john-rawls-and-immanuel-kant-a-comparison>

<https://www.thoughtco.com/conflict-theory-3026622>

<http://shodhganga.inflibnet.ac.in/bitstream/10603/13157/7/07_chapter%202.pdf>

<http://www.un.org/documents/ga/res/41/a41r128.htm>

<http://www.yourarticlelibrary.com/economics/social-justice-7-theories-of-social-justice-explained/39830>