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13 WOMEN AND THE ENVIRONMENT IN NIGERIA: THE EXPERIENCE OF WOMEN OF THE NIGER DELTA

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INTRODUCTION

Women and children are vulnerable to the effects of environmental degradation because of their close link with nature.² This reasoning is hinged on ecofeminism, a theory which states that the oppression of women is fundamentally linked to the wanton destruction of nature by human activities. The close link is derived from the woman's primary role in the family through fetching water, gathering foods and providing fuel for the use of the family and the community at large. The effects of environmental degradation affect the lives of men, women and children, but the impact is more on the female gender in Nigeria, especially in the Niger Delta area in the South-South region of Nigeria. A brief history of Nigeria is imperative for a better understanding of the effect of environmental degradation on the lives and livelihood of its people, especially women and children, particularly in the environmentally sensitive Niger Delta region.

The nation of Nigeria is located in the western coast of Africa, with diverse geography and climate ranging from arid to humid equatorial,³ and a population of over 170 million, over three quarters of who are youths.⁴ It is Africa's most populous country,⁵ with many diverse cultures and languages. Within Nigeria, the Niger Delta is situated on the Atlantic coast of southern Nigeria. It is the second largest delta in the world, with a coastline of about 20 000 square metres. The Niger Delta region is also the largest wetland in Africa and amongst the three largest in the world.⁶ A very large proportion of the Niger Delta region is made up of rivers, creeks and stagnant swamp areas,⁷ with an ecology of mangrove forest and coastal vegetation, fresh water, swamp forest and lowland forest.⁸ The Niger Delta

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2 Ranjith R and Pius TK. 2017. "Ecofeminism, Patriarchy, Capitalism and Post Colonialism in the Indian Scenario: A Short Study", *IOSR Journal of Humanities and Social Sciences* 22:18-22.

3 Udo RK and Hamilton A. 2019. "Nigeria", *Encyclopedia Britannica*. Online at: <https://www.britannica.com/place/Nigeria>

4 As of 2016, Nigeria's age breakdown was: Under 15 (42.7%); 15-29 (27.2%); 30-44 (16.6%); 60-80 (4.9%). Udo and Hamilton, "Nigeria".

5 Nigeria has a population of over 200 million people.

6 Udo and Hamilton, "Nigeria".

7 Udo and Hamilton, "Nigeria".

8 Amadi LA, Ogbanga MN and Agens JE. 2015. "Climatic Change and Feminist Environmentalism in the Niger Delta, Nigeria", *African Journal of Political Science and International Relations* 9(9):361-371 [<https://doi.org/10.5897/AJPSIR2015.0795>].

region is a region that has huge environmental impact, due to its vast deposits of petroleum and natural gas and the activities of multinational companies engaged in oil exploration.

The history of environmental degradation and ecological change in the Niger Delta region dates back to 1956, when oil was first discovered in commercial quantities in Oloibiri, a community in Bayelsa State. The Niger Delta region has heavy deposits of petroleum and natural gases and attracts multinational oil exploration companies, whose actions cause environmental degradation and pollution, affecting the lives and livelihood of the people of the region. Women and children are greatly affected by the impact of environmental degradation, as a result of their close relationship with nature and because their livelihood comes from activities such as farming, fishing and gathering of seafood such as periwinkles, crabs and oysters. The impact of environmentally degrading activities on women of the Niger Delta is the focus of this chapter.

To uncover the effects of environmental degradation on Nigerian women of the Niger Delta and the sources for remedy in law, this chapter proceeds in four parts. The first part examines discriminatory practices against women in Nigeria and the laws that exist to protect their rights. The second part explores the activities of the multinational oil exploration companies and their effects on the environment, the people and particularly the women. The third part appraises the existing legal framework protecting the right to a healthy environment in Nigeria. The chapter concludes by recommending policy measures for improving the lives of women in the Niger Delta.

LEGAL FRAMEWORKS FOR THE PROTECTION OF THE RIGHTS OF WOMEN IN NIGERIA

Women face a range of forms of discrimination based on sex, age, ethnicity, religion, education and other factors in Nigeria. Women experience discrimination from girlhood forward in the form of cultural preference, for male children, female genital mutilation and child marriage. As adult women, many endure domestic violence, disinheritance, and problematic practices associated with widowhood. These practices are not present in every group, but they are pervasive and problematic.⁹ These discriminatory acts and practices violate a plethora of extant

9 For studies of these practices in Nigeria, see Modupe AN. n.d. "Rights of Women in the Pre- and Post-Colonial Era: Prospects and Challenges", University of Ilorin; Gbobo PI. 2016. "Discriminatory Customary Practices and the Rights of Women in Nigeria: An Appraisal", *Uniport Journal of Law* 1(1):155-166; Ifemeji SC and Umejiaku N. 2014. "Discriminatory Cultural Practices and Women's Rights among the Igbos of South East Nigeria: A Critique", *Journal of Law and Globalization* 25:18-27; Whyte K. 2004. *Succession Rights of Women in Nigerian Law and Family*. Enugu: FDP Publishers. See also the cases of *Akinbuwa v Akinbuwa* (1998) 9 NWLR (Pt 564) 100 (Penal Code Section 55 which allow men to chastise their wives) and *Ukeje v Ukeje* (2014) LPFLR-2274(SC) (granting Igbo girls the right to inherit from their fathers).

laws protecting the rights of Nigerian women globally at the international, regional and national levels.

International legal framework

International laws protecting the rights of women in Nigeria include the Universal Declaration of Human Rights (UDHR),¹⁰ in which Article 1 declares that human beings are born free and equal in rights and dignity, Article 5 prevents torture or inhuman treatment and other provisions provide various protections of rights important for women. Despite these provisions, Nigerian women are still subjected to the harmful cultural practices of female genital mutilation, child marriage and problematic widowhood rituals. Furthermore, there is the Convention on the Elimination of all forms of Discrimination against Women (CEDAW),¹¹ a major instrument protecting the rights of women mandates all state parties to condemn discrimination against women and formulate policies to eliminate discrimination against women. In addition, the International Covenant on Civil and Political Rights (ICCPR) also advocates for the elimination of all forms of discrimination.¹² The Beijing Declaration and Platform for Action also emphasises equal rights of women with their male counterparts, equal participation in governance and freedom from any form of discrimination.¹³ The major challenge in the protection of the rights of women in Nigeria is the lack of domestication and enforcement of CEDAW, which is a comprehensive and major instrument on the rights of women.

Regional legal framework

Regional instruments such as the African Charter on Human and Peoples' Rights also include provisions protective of the rights of women in Nigeria.¹⁴ The African Charter has been domesticated within and enforceable under Nigerian law. An Additional Protocol to the African Charter on women's rights, known as the Maputo Protocol, specifically addresses the rights of women and the need for equality and freedom from discrimination. By virtue of this provision, women are guaranteed the

10 Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948), See especially arts 1, 2, 5, 17 (discussing the issues of discrimination, inhuman or degrading treatment or punishment and the recognisable rights of women to own property, amongst all other rights).

11 Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981 [<http://hrlibrary.umn.edu/instree/e1cedaw.htm>].

12 International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, art 2(1).

13 Beijing Declaration and Platform of Action, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995) [<http://hrlibrary.umn.edu/instree/bejingmnu.htm>].

14 African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. LnCAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986, arts 2, 18.

following rights: the right to life, right to a clean and healthy environment, freedom from harmful and discriminatory practices,¹⁵ equal rights in marriage, separation and divorce inheritance rights and rights to participate in politics, and also to seek remedies when such rights are violated.

National legal framework

The Constitution of the Federal Republic of Nigeria, 1999, forms the platform of the rights of every citizen in Nigeria, these fundamental rights are provided for in Chapter IV of the constitution.¹⁶ The Nigerian Constitution prohibits discrimination against any person by reason of ethnicity, race, colour, sex or circumstances of birth.¹⁷ Section 34 protects women against any form of inhuman treatment or punishment. Furthermore, the Nigerian Criminal Code protects women from assault and battery, as well as sexual violence. However, in spite of the protective provisions in the Constitution, there are some provisions which are discriminatory against women. For instance, the Constitution states unequivocally in its provision that a married woman is deemed to be of age irrespective of her biological age,¹⁸ a provision which encourages child marriages. This provision is detrimental to the rights of women, as minors below the age of eighteen years are married out as adults. This early forced marriage is common in the northern part of Nigeria, and it is a violation of the provision of the Child Rights Act,¹⁹ which stipulates a minimum age of a child as eighteen years. Also, the Penal Code applicable in the North encourages husbands to batter and assault wives for corrective purposes, but with the avoidance of grievous bodily harm.²⁰ The discriminatory cultural practices has prevented the women, including women of the Niger Delta women, from realising their potentials as members of the society and is made worse by non-enforcement of laws protecting the rights of women, especially CEDAW, which is yet to be domesticated and hence unenforceable. There is a need to amend these provisions of the Nigerian laws that are discriminatory against women and also to domesticate international instruments that have been ratified by Nigeria to enhance and promote the rights of women in Nigeria.

15 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, CAB/LEG/66.6 (Sept. 13, 2000); reprinted in 1 Afr. Hum. Rts. L.J. 40, *entered into force* Nov. 25, 2005 [hereinafter the Women's Rights Protocol]. See arts 5, 7, 9 and 14.

16 Constitution of the Federal Republic of Nigeria, 1999, ss 33-44. These are the right to life, right to human dignity and right against any form of discrimination amongst all other rights.

17 CFRN, s 42

18 CFRN, s 29(4).

19 Child Rights Act, 2003.

20 Penal Code, s 55(1)(b).

THE MULTINATIONAL OIL INDUSTRY AND ITS ENVIRONMENTAL EFFECTS IN THE NIGER DELTA

In addition to the discriminatory practices faced by women as a result of customs and values, the activities of multinational corporations from oil exploration in the Niger Delta also pose particular problems for women in the region. Oil extraction activities by multinational companies have resulted in serious ecological damage to the Niger Delta region.²¹ This ecological damage is disproportionately borne by women, who constitute the bulk of farmers and fishers in the region. Traditionally, men are often employed as skilled and unskilled labourers in the multinational companies and other industries in the region. Women must supplement their husbands' income with subsistence farming and fishing. The extraction of crude oil has caused the pollution of rivers, creeks and other surrounding land areas, destroying farmlands which have been the source of livelihood for Niger Delta women. Oil exploration has the potential to create enormous environmental and ecological damage, in the sense that huge amount of waste produced in the process is very toxic when released into the environment.²² Sometimes, oil spillage and leakages contaminate farmlands, aquatic habitats and sources of water supply, which are the main source of subsistence of the Niger Delta women. Their main source of livelihood is destroyed, as they are mainly subsistence farmers and fishers.²³ The general environmental effects of the oil industry on the Niger Delta and its people, thus end up disproportionately affecting the region's women.

Environmental effects of the oil industry in the Niger Delta

The World Health Organization defines oil pollution as accidental or deliberate discharge of oil into the environment or may occur from water sludge in oil terminals and released into the water ways.²⁴ Bopp Van Dessel, the Shell BP former head of environmental studies in Nigeria, stated that environmental damage and degradation in the Niger Delta is caused by oil spills, gas flare and oil waste.²⁵ Oil spillages occur frequently in the Niger Delta region. S.A. Awobajo, an environmental analyst, stated that from available data, there were 784 oil spills incidence between 1978 and 1980.²⁶ Amnesty International reported that Shell BP admitted to having

21 Multinational oil corporations operating in Nigeria include Shell BP, Chevron, Total Fina Elf, Agip, Mobil and recently small indigenous oil companies.

22 Ebeku KSA. 2006. *Oil and the Niger Delta People in International Law*. Köln: Rodiger Koppe Verlag.

23 Ebeku, *Oil and the Niger Delta People in International Law*, chapter 4.

24 Ebeku, *Oil and the Niger Delta People in International Law*.

25 Van Dessel resigned from the corporation in protest against the poor environmental records of Shell in Nigeria. See Ebeku, *Oil and the Niger Delta People in International Law*, 136.

26 Awobajo SA. 2006. "An Analysis of Oil Spill incidence in Nigeria 1976-1980", a paper presented at a Seminar on the Petroleum Industry and the Nigerian Environment at the Petroleum Training Institute, Warri, 9-12 November 1981, in Ebeku, *Oil and Niger Delta People in International Law*, 137.

more than 550 incidence of oil spills, while Nigerian Agip Oil, a smaller player in the Niger Delta, admitted to being responsible for 349 spills all in 2014, to take a recent year, amounting to over 30 751 barrels of oil spilled on the environment.²⁷ The pollution of the Niger Delta region is yet to abate, as oil pollution occurred in three states in 2016.²⁸

Oil spillage and pollution has devastating effects on the environment, ecology and habitat of the Niger Delta people. Where the spillage runs into farmlands, crops and soil, nutrients are destroyed, land is rendered infertile and unsuitable for agricultural purposes, thereby destroying the source of livelihood of the women and their children. Where the oil flows into the streams, rivers or creeks, aquatic life, a source of livelihood of women and children in the Niger Delta region, is destroyed.

Sources of water supply are also contaminated with oil spills, leading to health hazards.²⁹ Consequently, women have to travel to neighbouring communities to fetch water, causing untold hardship on women and children, whose burden is to provide water for the family. Environmental science scholar Francis Ileoje has stated that the mangrove aquatic flora and fauna have been destroyed within the delta as a result of persistent large oil spillage into its waterways.³⁰ He has further explained that groundwater has been contaminated with high level of Maximum Permissible Concentration (MPC) of crude oil is found in groundwater.³¹ In a polluted site in Ogoni, a community in the Niger Delta region, a recent survey carried out by United Nations Environment Programme (UNEP) found drinking wells that had measures of the carcinogen benzene that were 900 times above WHO guidelines. Hydrocarbon contaminate was also found in the drinking wells.³² Women are,

27 "Nigeria: Hundreds of Oil Spills Continue to Blight Niger Delta", *Amnesty International*, 19 March 2015.

28 The three recent states affected by oil pollution include: (1) Delta State in August 2016, oil spillage caused by Nigerian National Petroleum Corporation (NNPC) facility affected ten communities in Gbaramatu Kingdom along Escravos river in Warri; (2) Bayelsa State in September 2016 oil spillage as a result of the activities of the Nigerian Agip oil company affecting Kalamba community; and (3) Rivers State in September 2016, oil spillage caused by Agip Corporation in the Ahoada community. These oil spillages have devastating effect on agriculture, environment and well-being of the Niger Delta people. See "Recent Oil Spills in Delta, Bayelsa and Rivers States", *Stakeholder Democracy Network*, 2016.

29 Ogbuigwe A. 2018. *Legal Issues in the Niger Delta Resource Dilemma: A Collection of Essays*. Second Edition. Port Harcourt: Anpez Centre for Environment and Development, 12.

30 Ileoje AF. 2016. "Crude Oil Exploitation: The Environmental and Economic Implication to the Niger Delta People", *IOSR Journal of Environmental Science, Toxicology and Food Technology* 10(7):47-53.

31 The maximum Permissible Concentration of Crude Oil (MPC) is above 1.8 mg/litre compared to the WHO recommended figure of 0.1 mg/litre.

32 The United Nations Environment Programme (UNEP) examined 28 wells in Ogoni land used as source of drinking water and found high level of benzene and hydrocarbon, an effect of oil pollution. Surface groundwater (creek, streams and rivers) also contain hydrocarbon, a substance that is carcinogenic and harmful to the lives of the Niger Delta people.

therefore, exposed to health hazards from ingestion of contaminated water for drinking and for domestic purposes.

Gas flaring in the Niger Delta has adverse effects on the environment.³³ Crops planted by women for subsistence are destroyed by excessive heat emissions from gas flaring. In a bid to reduce gas flaring to the barest minimum, the Associated Gas Re-Injection Act was promulgated. The Act mandates that all oil corporations conserve gas reserve and devise a scheme for processing gas for domestic and industrial use. Consequently, a Memorandum of Understanding (MOU) was reached between the federal government and the multinational companies in 2004 to end gas flaring. Unfortunately, the MOU has failed to achieve its designed purpose, as oil companies in the Niger Delta continue to flare gas because it is cheaper to flare gas than to embark on reinjection of gas ventures.³⁴ Gas flaring has remained a perennial problem in the Niger Delta region.³⁵

Consequent upon persistent oil pollution and environmental degradation, youths in the Niger Delta have formed groups to oppose the exploitative policies of the multinational companies.³⁶ These groups have demanded the cleanup of local waterways and territories and the equitable distribution of oil revenue and compensation for ecological damage in the Niger Delta region. The people of the Niger Delta have also petitioned the government to increase the budget of the states in the Niger Delta region. After all, the Niger Delta region is the source of a huge sum of Nigerian revenue, accounting for 85% of the gross domestic product (GDP) 95% of the nation's annual budget and 80% of the nation's wealth. Ironically, Niger Delta region remains impoverished as a result of ecological unfriendly oil exploratory activities of multinational companies resulting in massive environmental degradation.³⁷

The multinational oil corporations have corporate social responsibility for the welfare of the host communities in which they operate to protect the environment and not engage in destructive activities, which may be inimical to the environment and its people.³⁸ Regrettably, the oil companies in the Niger Delta are more concerned with exploration of oil and making profit than protecting the environment of the host communities. The multinational companies do not take into account the plight of

33 *Jonas Gbemre v Shell Petroleum and Development Company Ltd.* Unreported Suit No FHC/B/CS/53/05.

34 Atsegbua L. 2004. *Oil and Gas Law in Nigeria: Theory and Practice*. Benin: New Era Publishers, 119.

35 Dimowo F. 2008. "The Liquefied Natural Gas Act and 2004 Gas Flaring Deadline in Nigeria for Oil Industry", *Nigerian Educational Law Journal* 9(1):189-204.

36 These protest groups include Movement for The Emancipation of the Niger Delta (MEND), Niger Delta Volunteer Group and Movement for the Survival of the Ogoni People (MOSOP), as well as other smaller groups.

37 Dokubo A. 2004. "Niger Delta and the Nigerian State", *The Argus* 3(61):4.

38 Edu OK. 2011. "Corporate Social Responsibility: The Case of Multinational Oil Companies in the Niger Delta of Nigeria", *Sri Lanka Journal of International Law* 23:101-128.

the host communities, especially women. Exploration activities by the multinational corporations do not operate within the international best practices for improving the lives of the real stakeholders in places where they do business, particularly the stakeholders who are women. The skilled and unskilled jobs offered by the multinational corporations are occupied mainly by men, and women in most cases are not considered for hire. This practice is unfair to the Niger Delta women, who continue to labour menially to support their husbands in maintaining the family. In view of these activities of the multinational companies in the Niger Delta, which have caused degradation of the environment and ecosystem, the question then is whether existing national laws regulating the exploration process of crude oil in the Niger Delta region are effective in regulating the multinational oil companies and the disproportionate harm they do to the region's women.

Environmental effect of oil exploration on the Niger Delta people

Multinational oil corporations have operated in the Niger Delta region for over fifty years, with devastating impact on the environment, the ecology and the people. Their activities have resulted in incessant oil spills of varying high magnitude, coupled with indiscriminate disposal of chemical waste contrary to best environmental standards.³⁹ The impact of oil pollution on land is enormous. In particular, topsoil is contaminated, rendering the land unsuitable for plant growth. The nitrogen content of the soil is reduced and the toxic content increases, thereby depriving the source of sustenance and livelihood of the Niger Delta people, who are mainly engaged in farming and fishing. Here, large hectares of viable agricultural land have been destroyed by oil spills, this has greatly affected the agricultural capacity of the people and has reduce their sources of income and livelihood. A recent case of note is an oil spill in the Ogoni community, which generated international concerns.⁴⁰

It has been observed that the bodies of waters in the Niger Delta region have films of oil from pollution, preventing the natural aeration and leading to death of marine life trapped beneath.⁴¹ Similarly, seafoods found on the banks of the river in the Niger Delta are also affected by oil pollution, which is a main source of protein and income for the people. Furthermore, industrial chemical waste which is the by-product of oil exploration is toxic to human existence and buried beneath the ground by multinational oil companies, resulting in ecological and health hazards to the people. This waste often resurfaces during the rainy season, directly polluting the surface land and water.⁴² In the same vein, oil pollution affects the rich mangrove

39 Osibanjo O. 1992. "Industrial Pollution Management in Nigeria", in Aina EOA and Adedipe NO (eds). *Environmental Consciousness for Nigerian National Development*. Lagos: Federal Environmental Protection Agency (FEPA).

40 Discussion and publicity of the plight of the Ogoni people, as a result of the massive environmental damage from oil impacted sites, led to the UNEP Report on the clean-up of the area which is in progress now.

41 Ebeku, *Oil and the Niger Delta People in International Law*, 142.

42 Ebeku, *Oil and the Niger delta People in International Law*, 144.

forest in the Niger Delta region. In the event of oil spills, it is difficult to carry out an effective cleanup because of the density of the mangrove areas; thus, the oil spill may be retained for a long period and may cause defoliation and death of trees within few months.

The health impact of oil spills is significant. Inhabitants of the Niger Delta region are exposed to skin diseases, upper respiratory infection and gastrointestinal infection from consumption of contaminated water.⁴³ Recent findings have shown that oil pollution may predispose people to the development of cancer, especially in places or communities contaminated with oil spills.⁴⁴ The correlation between oil pollution and the development of cancer may be inferred from the high content of benzene in the soil in oil polluted sites in the Niger Delta. High quantities of benzene can predispose a person to the development of cancer. In the Ogoni community, some people have complained of rashes on their skin whenever they go into the water.

Apart from pollution from the oil itself, the constant and continuous flaring of gas by multinational oil companies also has particularly adverse effect on Niger Delta women. The gas flare sites are located close to human settlements and so account for the harmful effects on bushlands and farms where women support their families in an economy of subsistence. According to Oluyemi Osibanjo, a professor of environmental law,⁴⁵ the continuous flaring of in the Niger Delta for the past fifty years has contributed remarkably to the release of greenhouse gases into the atmosphere, as well as acid rain. Gas flaring also destroys wildlife, which provide a source of meat for people in the region. Health hazards associated with gas flaring include partial deafness from noise and discomfort from excessive heat. Soot produced from the gas flares contaminates sources of drinking water and expose the people to water-borne diseases, such as diarrhea and gastroenteritis.

Effects of environmental degradation on Niger Delta women

The impact of incessant oil pollution, gas flaring and indiscriminate disposal of chemical waste buried underground has exposed Niger Delta women to environmental hazards which significantly affect their economic and physical well-being.⁴⁶ The economic and physical impacts are experienced by all Niger Delta people, but some of the economic effects discussed above are disproportionately borne by women and there are further reproductive health effects are specific to

43 Ordinoha B and Brisibe S. 2015. "The Human Health Implications of Crude Oil Spills in the Niger Delta: An Interpretation of Published Studies", *Journal of Nigerian Medical Association* 54(1):6-10 [<https://doi.org/10.4103/0300-1652.108887>].

44 The correlation between oil pollution and the development of cancer may be inferred from the high content of benzene in the soil in oil polluted sites in the Niger Delta. High quantities of benzene can predispose a person to the development of cancer.

45 Osibanjo O. 1992 "Industrial Pollution Management in Nigeria", in Aina and Adedipe, *Environmental Consciousness for Nigerian National Development*.

46 Ordinoha and Brisibe, "The Human Health Implication of Crude Oil Spills in the Niger Delta".

women, as well. The reproductive health of women in the Niger Delta region is significantly affected by the impact of environmental degradation from the activities of oil exploration and exploitation by multinational oil companies. The high level of benzene in the soil and water in the Niger Delta have been observed to be the predisposing causes of new cases of cancer in women in the Niger Delta.⁴⁷ Further, studies have shown that pregnant women in the Niger Delta region are predisposed to miscarriages, stillbirths and even fetal congenital anomalies linked to the adverse effect of toxic chemical waste buried beneath the ground, which are exposed to the surface during the rainy season. These toxic materials contaminate crops, rivers and seafood beyond maximum permissible limits, and they also significantly and disproportionately compromise women's general and reproductive health.⁴⁸

LEGAL AND INSTITUTIONAL FRAMEWORKS FOR THE PROTECTION OF THE NIGER DELTA ENVIRONMENT

With the discovery of oil in commercial quantity in Nigeria in 1956, several laws have been promulgated to regulate the activities of oil exploration in the Niger Delta region. The Nigerian environmental laws are in most cases on par with international standards, but they are poorly enforced in tackling the problems of oil spills, gas flaring and indiscriminate disposal of industrial chemical waste.⁴⁹ Notable environmental laws include, but are not limited to: the Petroleum Act, the Associated Gas Re-Injection Act, which mandates oil companies to submit programmes for gas re-injection; the Harmful Waste (Special Criminal Provision) Decree,⁵⁰ prohibiting the sale, purchase, importation, transport and storage of harmful waste in the country; and the National Environmental Standard and Regulation Enforcement Agency Act (NESREA), a primary law on environmental protection.

Alongside the domestic laws on the protection of the environment from the activities of oil exploration, institutions were created by law to enforce these laws include the National Oil Spills Detection and Response Agency (NOSDRA) to detect oil spills and respond swiftly to prevent further spills, and the Environmental Impact Assessment (EIA) to analyse the impact of environmental damage from oil pollution. The agencies have the mandate to enforce these laws. The laws are laudable, but the agencies lack the means to respond effectively to oil spills caused by multinational oil exploration companies. They lack equipment such as boats and

47 Friends of the Earth International. 2005. "Gas Flaring in Nigeria: A Human Rights, Environmental and Economic Monstrosity". Amsterdam: FOEI. Eight new cases of cancer have been reported yearly in Bayelsa, one of the major oil producing states in Nigeria.

48 Ordinocha and Brisibe, "The Human Health Implications of Crude Oil Spills in the Niger Delta".

49 Ogbonnaya UM. 2011. "Environmental Law and Under Development in the Niger Delta", *African Research Review, International Multi-Disciplinary Journal, Ethiopia* 5(5):66-82 [<https://doi.org/10.4314/afrrrev.v5i5.7>]. See also Edu, "Corporate Social Responsibility".

50 Harmful Waste (Special Criminal Provision) Decree 42 of 1988.

helicopters to navigate the complex terrain to monitor incidences of oil spillage and so have to rely on the equipment of the multinational companies to access the oil spill sites.⁵¹ In fact, these agencies seek the assistance of multinational oil companies for logistics to perform their statutory responsibilities in many cases.⁵² In fact, what would be truly innovative would be for NOSDRA to engage the services of women in the Niger Delta to help notify the agency, as they are in constant engagement with the environment in their daily activities. They are likely to notice oil spills early and report them promptly to the agency for necessary intervention. In this way, Niger Delta women could serve as agents of change, rather than remaining in a passive state. Niger Delta women remain an untapped resource in addressing environmental degradation in the region.

Notably, the United Nations Environment Programme (UNEP) Report of 2011 brought to the fore the unimaginable environmental abuse in Ogoni land (a community in the Niger Delta region) and other adjoining communities. This involved oil pollution of large expanse of land space, farmlands and sources of water supply for drinking and domestic use, with resultant health hazards to the Ogoni people.⁵³ The Niger Delta people have the right to the protection of their environment, as provided by the Nigerian Constitution,⁵⁴ for without a healthy and clean environment the right to life cannot be achieved. Similarly, the African Charter on Human and Peoples' Rights also stipulates the need for a healthy environment and the right to health.⁵⁵ The case of *Jonas Gbenre v Shell Petroleum Development Company Limited*⁵⁶ was a landmark case in environmental degradation with respect to persistent gas flaring by Shell Petroleum Development Company in the Niger Delta region, in which the court held that gas flaring is illegal and constitutes a violation of the human right of the Niger Delta people to a healthy environment. In the same vein, the Ogoni people in the Niger Delta brought an action against the multinational companies operating in Ogoni to the African Commission on Human and Peoples' Rights alleging the destruction of their environment by dumping of toxic waste into the environment and waterways and thereby violating provision of the African Charter.⁵⁷ The Commission observed that the Nigerian government

51 Agbonifo P. 2016. "Oil Spills Injustices in the Niger Delta Region: Reflection on Oil Industry Failure in Relation to the United Nations Environment Programme (UNEP)", *International Journal of Petroleum and Gas Exploration Management* 2(1):26-37 [<https://doi.org/10.5539/ijsg.v9n4p1>].

52 Agbonifo, "Oil Spills Injustices in the Niger Delta Region".

53 Agbonifo, "Oil Spills Injustices in the Niger Delta Region".

54 CFRN, ss 20, 33.

55 African Charter, arts 4, 16, 24.

56 Unreported Suit No FHC/B/CS/53/05. See also *Machine Umudje v Shell BP Petroleum Development Company of Nigeria* [1975] 11 SC 155.

57 *The Social and Economic Rights Action Centre and Centre for Economic and Social Rights v Nigeria* (2001) African Commission on Human and Peoples' Rights Commission No 15596. The action of the multinational companies violated articles 2, 4, 14, 16, 18(1), 21 and 24 of the African Charter.

had condoned and facilitated the violations by placing legal and military powers of the state at the disposal of the oil companies. The resulting destruction of the environment has destroyed the source of livelihood and sources of livelihood of the people, especially women, engaged in subsistence farming and fishing.⁵⁸ It is therefore submitted that there are adequate laws in Nigeria to check and regulate the activities of the oil exploration companies in preventing oil spills, gas flaring and disposal of chemical waste products; however, the process of enforcement of these laws is lukewarm and lopsided and needs to be strengthened to ensure a safe and healthy environment in the Niger Delta region. The nonchalant attitude of the multinational oil companies, resulting in incessant oil spillage, gas flaring and indiscriminate disposal of chemical waste have caused degradation of the Niger Delta region in Nigeria.

CONCLUSION

There is a significant nexus between the degradation of nature and the oppression of women as ecofeminists argue in their examination of law, religion and culture. In Nigeria, gender discriminatory practices are promoted by norms, customs and values hinged on patriarchy, and these pose challenges to women in realising their full potential in the society. Some of these discriminatory practices have been addressed in the decisions of Nigerian courts addressing the issues of discriminatory practices against women in Nigeria.⁵⁹ This chapter has explored how the activities of the multinational oil corporations in the Niger Delta region have culminated in massive environmental degradation as a result of oil pollution, gas flaring and indiscriminate disposal of toxic chemical waste products. The devastating destruction of the Niger Delta region has caused untold hardship for the people, its farmlands and rivers, which are the source of income and sustenance.

The resulting health hazards cannot be overemphasised, as the people are exposed to respiratory diseases from air-borne pollutants and gastrointestinal infection from contaminated drinking water, as well as high incidences of new cases of cancer. The reproductive health of Niger Delta women has been compromised from the impact of oil exploration, as pregnant women are predisposed to miscarriage and cancer and their children to congenital fetal defects from consumption of high quantity of benzene from pollution of crops, fish and other seafoods. Nigeria has adequate laws to regulate and monitor the activities of the multinational oil companies but the enforcement mechanism is weak and needs to be strengthened by the government providing the necessary equipment for the agencies to operate effectively to curb the incidences of environmental degradation in the Niger Delta region.

58 *The Social and Economic Rights Action Centre and Centre for Economic and Social Rights v Nigeria* (2001) African Commission on Human and Peoples' Rights.

59 *Ukeje v Ukeje* (2014) LPFLR-2274 (SC), a Supreme Court decision which affirms the inheritance rights of female children amongst the Igbo ethnic group in Nigeria. This decision is in line with Section 42 of the Nigerian Constitution – a right against discrimination by reason of sex distinction.

In view of the above, I make the following recommendations. First, the federal government of Nigeria should put an end to discriminatory customary practices against women by engaging the custodians of customary laws, a category that includes the elders, chiefs and age-grade groups, and sensitise them on the need to end such practices. Defaulters should be punished to act as deterrence to others. Second, as a matter of urgency, there is a need to amend the Petroleum Act and Associated Re-Injection Act to put an end to gas flaring and curtail the incidence of oil spills in the Niger Delta region. Third, multinational oil companies should collaborate with the government to provide socio-economic programmes to empower the women and strengthen women's groups in the Niger Delta region. Fourth, stringent enforcement mechanisms should be put in place by the federal government, through its agencies, to ensure proper monitoring of the activities of the multinational oil companies and ensure that they operate within the ambits of existing global best practices to minimise pollution of the environment, with stiff penalties for defaulters. Fifth, corporate social responsibility should be a platform for empowering women. There should an affirmative principle mandating a certain number of women to be employed by the multinational oil companies alongside men to promote gender equality and involvement of women in positions of authority. Finally, institutions protecting the environmental from degradation, such as National Oil Spill Detection and Response Agency (NOSDRA) and other agencies, should take steps to enhance participation by women in their programmes, because in their daily activities of farming and fishing, women can easily detect oil spillage or leakages and report promptly to the designated agencies.