

Integrated Approach to Human Rights in a Post Conflict Niger Delta

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Introduction

Citizens of the Niger Delta have been subjected to human rights violations, characterized by the political history of Nigeria prior to 1999 dominated by military dictatorships that suppressed opposition. This area has been plagued by years of environmental degradation and abject poverty. It is one of the world's top oil-producing regions and has been the center of violent conflict, despair, neglect, poverty and poor environmental conditions for many years (O'Neill, 2007). According to Onuoha (2005) and Okonta & Oronto (2001), the conflict in the area is intractable between various parties: community against community, youth against elders, community against oil companies, militants against government forces, etc.

The Niger Delta is within the south-south geopolitical zone in Nigeria. It is an area of approximately 70,000 square kilometers comprising of swamps, rainforests, rivers, and creeks. It accounts for almost ninety-five percent of the country oil export¹. Figure 1 shows the states considered as part of the Niger Delta States, a close-up map of the Niger Delta showing

¹ Dulue Mbachu, *The poverty of oil wealth in Nigeria's Delta*. In for ISN Security Watch (03/02/06).

streams, creeks, etc. The Niger Delta Region is rich in human and natural resources, arts and culture. The area has a population of 31.2 million people, speaking 250 languages and dialects comprising more than 40 different ethnic group, representing 13,329 settlements in 185 Local Government Areas (LGA) in 9 out of the 36 states of the Nigeria. (Akpomuvie, 2011; Emmanuel, Olayiwola, & Babatunde, 2009; Uyigüe & Ogbeibu, 2007; Imoh, 2008).

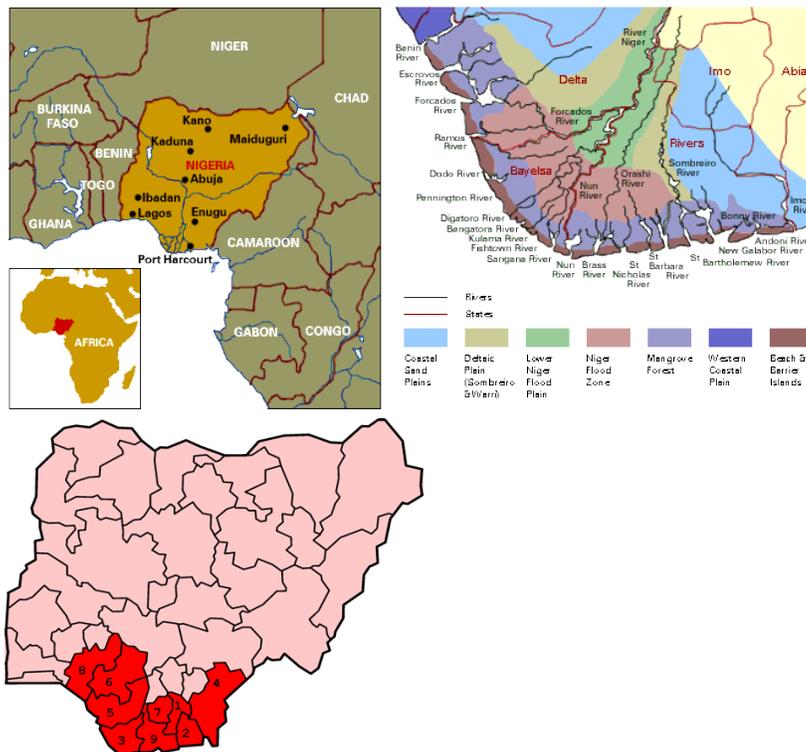


Figure 1²: Map Showing Nigeria within Africa & Niger Delta Terrain

Ukpong (2017)³ in a report sponsored by the *Natural Resource Governance Institute* described life in the Niger Delta. In his description of a school in Akwa Ibom state, he said:

The man wearing a T-shirt on a wrapper lowers his head and frame slightly, to enable him to step out of a small opening

² http://www.waado.org/nigerdelta/Maps/NigerDelta_Rivers.html,
https://en.wikipedia.org/wiki/Niger_Delta#/media/File:NigerDeltaStates.png,
http://www.waado.org/nigerdelta/Maps/NigerDelta_WestAfrica.html

³ <http://www.premiumtimesng.com/news/headlines/221870-special-report-nigerias-oil-rich-communities-abandoned-shocking-poverty-despite-huge-wealth.html>

that serves as the entrance door to his thatched house. He identifies himself simply as Fingesi. "I teach in that school over there," Fingesi says, pointing at a makeshift structure with a zinc roof, near his house, which serves as the community's only primary school. Apart from two chalkboards nailed loosely onto wooden pillars, nothing suggests this is a place for learning. A goat lies on the only school desk, and what would have been the second desk is broken. As many as 40 pupils sometimes cram into the small space to receive lessons in Mathematics, English, Social Studies and her subjects from Fingesi and one other teacher who also serves as the school head.



Figure 1: school in Niger Delta picture courtesy of Cletus Ukpong

In the situation described, it is clear that decent schooling/education is not working in the community. Considering Jeffrey Sachs definition, it will be acceptable to conclude that the people live in extreme poverty with other hardships including lack of sanitation, clean water, shelter, etc. In Ibenao another community in Akwa Ibom state of Niger Delta described in the report, the situation is not any better. The government provided a school

that is under lock and key because there is no teacher posted to the school. The people live in huts close to a polluted pond, which is their only source of water. The figure 2 below shows the situation.



Figure 2 Ibeno Community in Akwa Ibom State - picture courtesy of Cletus Ukpog

Ukpog, (2017) claimed that Ibeno got an allocation N8.645billion from 2010 to 2106 which is equivalent to \$28 million from the Federation government. In his analysis, the amount is little compared to the resources generated by the oil companies operating from the area. However, he concluded that there is nothing to show how the funds were judiciously used. It is a pathetic situation of lack in the midst of plenty. In this case of extreme poverty in the Niger Delta should be an essential priority: CP or ESC Rights? How then can we approach the CP and ESC rights? Shue's (1996) concept of basic rights lays the foundation for discussion of this integration.

The people lack necessary infrastructure in the midst of the immense wealth exploited from the region and the vast amount budgeted

for the development of the area. The population (majority women and children) live in rural communities and are involved in subsistence farming. They cannot afford a good education for their children due to their low-income levels, lack of facilities, and destruction of their means of livelihood. The failure of the government to provide for the people results in growing frustration resulting in series of protests, violence, and militancy. According to Imoh (2008) 'the most commonly held view is to attribute the causes to a potent cocktail of violence, underdevelopment, abject poverty in the area, a lure for quick money, environmental damage and failure of government leading to a growing frustration and circle of violence.' In 2009, then President Musa Yar'Adua proclaimed an amnesty with the following words: "I hereby grant amnesty and unconditional pardon to all persons who have directly or indirectly participated in the commission of offenses associated with militant activities in the Niger Delta" (Adunbi, 2015, p.222). This proclamation brought a stop to hostility, there is still insecurity, the kidnapping has reduced, but it has not stopped. This period can, therefore, be classified as a post-conflict situation. The hostility has ended; it is time to face the developmental challenges as well as the human right issues.

This post-conflict era provides an opportunity for discussing the issue of human rights in the Niger Delta. What approach of human rights, therefore, should be appealed to in articulating and solving the problems in the Niger Delta? The establishment of democratic government has not brought the expected dividend of peace and development. The mantra of upholding human rights as the panacea for solving all the problems of the region brings to question which form of human rights is being articulated. To this end this paper will be appeal to the Universal Declaration of Human Rights (UDHR) as the basis of the consideration of a human rights approach to addressing the problems outlined above.

The UDHR was unanimously adopted by the United Nations General Assembly on 10th December 1948. The aim of the UDHR is to facilitate decent living conditions and protection from the oppressive powers of governments. The UNDHR is a resolution and therefore its provisions are not legally binding. it is, therefore, not enforceable. However, its general recognition as a set of moral imperatives renders it a part of international law as a matter of custom. The Office of the High Commissioner for Human Rights defines human rights as "rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin,

color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.”⁴ Inherent in resolutions and treaties are obligations and duties of states to enforce the protection of rights; they assume responsibility to protect their people from abuses and ensure a fulfillment of the enjoyment of the benefits. This paper will be exploring the extent of fulfilling these rights in a post-conflict Niger Delta.

The acceptance of UDHR led to a movement for a relativist conception. This normative understanding draws on the difference between respect among nations and cultures in the interpretation of. Do rights have the same meaning in all nations, to all people and at all times? At the time of UDHR in 1948, Hayden (2001) claimed there were only 60 countries; today there are 195. The states that conceived and developed UDHR based it on their vision and cultural/social worldview, even accommodating the cold war rivalry. Felice grouped UDHR articles into three groups: the first group of articles 1-21 linked to the French and US revolution, which emphasizes life, liberty, freedom, and security. The second group of rights in articles 22-27 connected to the Russian revolution, which was welfare, oriented. The last group reflected in articles 28-30 strives for global interdependence and solidarity. The various parties to the enactment had different views of what constitute human rights; these differential views have not changed.

Human rights are broadly conceive to encompass both civil and political (CP) rights on the one hand and economic, social and cultural (ESC) rights on the other hand. *The problem is that the land resources of the Niger Delta have been devastated by years of environmental degradation, a lack of duty of care by the government, and militancy, thereby preventing the people from achieving their potential. There is a constant call for upholding the rights of the people of the Niger Delta. However, this has mostly focused on CP rights; with neglect or less attention to ESC rights.*

There exists irrefutable documentation of human rights violations in the Niger Delta and other resource-rich areas (Ikelegbe, 2001; Watts, 2005; Frynas & Pegg, eds. 2003; Wettstein, 2012). The actions of repression and suppression of peaceful protests, as well as the use of armed security

⁴ <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>

forces to disperse and intimidate citizens is well documented (Bassey, 2008; Ezeudu, 2011; Manby, 1999). Others include violations of health, environmental, fraud, accountability issues, land, etc. within the framework of CP rights. It is essential to bring the atrocities and violations to the attention of the general public and call for better protection of human rights, including a conscious effort to address the causes which can be traced to a denial of sufficient resources required for subsistence. The cases of Ogoni, Choba, Okirika, Umuechem, Odi among others in the Niger Delta are well documented (Nwaja, 1999). These are reactive, responding to actions of government and its security agents, not proactive to prevent and empower the people.

There are other cases of lack of responsibility by the government to enforce its regulations and the multinational oil companies taking corporate social responsibility as a tokenism given to communities (Watts, 2005; Ezeudu, 2011). The implication is that the duty of the companies to operate responsibly and ensure the survival and well-being of the people are neglected (WBCSD, 2000). There is the constant blame game while people suffer and die. The reactive nature of current actions has not solved the problem nor improved the situation; there is a need for a conscious change in the way human rights are discussed and implemented in the Niger Delta.

What is lacking is a perspective that understands ESC and CP rights as integrated components of human rights. The economic survival and subsistence of the people is a necessary condition for appreciating and enjoying political and civil rights. There has to be a clear plan of articulation of a human rights discourse that should begin with a right to subsistence. It is those whose basic subsistence needs are provided that can lay a fair claim to CP rights. This paper, therefore, calls for an integrated approach to human rights in the Niger Delta.

This paper highlights the implications for human rights in a post-conflict Niger Delta. It argues that over time, an evolution in the appreciation of human rights has occurred; however, the reality is that living conditions as seen in Niger Delta reaffirm that CP rights should not be separated from ESC rights. As such, a relative concept of human rights that affirms the citizens of the Niger Delta protection, provision, and survival is necessary. The enforcement of the CP rights of the citizens of the Niger Delta is not feasible without first ensuring the safeguard of the environment that

supports the people's means of livelihood. This implies that subsistence should be first on the agenda, which falls within the sphere of ESC rights. For sustenance makes life possible, people need to be alive to enforce their CP rights. These include clean water, clothing, shelter, food, and healthcare, among others. The failure or inability of the state to provide these amenities is a human rights violation. The enforcement of the right to subsistence is the foundation of other rights; the failure to provide and defend it will lead to failure of other rights. Building on the foundations of basic rights as postulated by Shue (1996) is a unity of CP and ESC rights. This paper appreciates the dynamics of the Niger Delta situation and reaffirms that protection and provision for the survival of the people should be imperative before people can effectively claim their civil and political rights. Therefore, the continuing conflict in the ND is the failure of the State to uphold this principle (Okonta & Douglas, 2003; Onuoha, 2005).

The paper is divided into an introduction and two parts. The first part explores the concept of human rights drawing from its historical roots in the United Nations declaration of human rights. It presents philosophical discourses and ideas concerning CP and ESC rights, while maintaining the thesis that CP and ESC rights should be integrated to solve the human rights plights in the Niger Delta. The human rights situation in the Niger Delta is presented with a vivid description of poor social and environmental conditions. This is followed by an explication of the concept of CP and ESC rights and its applicability in the Niger Delta with a focus on the integration of these conceptions of human rights in a post-conflict Niger Delta. The paper concludes with recommendations on the way forward in the Niger Delta human rights situation.

Historical Context of Human Right: Civil and Political Rights versus Economic, Social and Cultural Rights

The concept of human rights has undergone significant modifications over time (Nussbaum, 1997). Human rights can be defined as 'ethical duties' not necessarily constituting a legal framework but nevertheless indispensable because of the freedom it gives to the people to do and to be that which they cherish (Sen, 2004). Within the social contract tradition Locke, Kant, and Paine, for example, argue that the state has a duty and moral obligation to protect the human rights of its citizens. Historically, the

discourse on human rights endeavoured to put a mechanism in place to ensure individual's protection from the state. The perception of the state as all-powerful and oppressive led to the need for a mechanism to ensure that rights are respected (Locke, 1764/2001; Paine, 1894/2001; Kant, 1891/2001).

Felice (1996) suggests that the moral protection of human rights is value-based, thereby reflecting the socio-economic situation of the country. The America revolution, for example, embraced civil and political rights as inalienable, but it did not consider the provision of means of livelihood as rights. However, in most communities in developing countries like the Niger Delta, via the extended family, tribes, and association as the face of the government, economic and social rights are paramount. They provide the basis for protection and providence. Therefore, the expectation of the people is that the government will regulate the oil companies in order to protect the people from the environmental damage that destroys their livelihood. These expectations are about the survival of the people hinged on their ability to thrive within their community without hindrance. The people of the Niger Delta are victims of inadequate enforcement of environmental regulations, government inability to rein in powerful multinational oil corporations, who in exploiting the resources, violate the rights of the people to a healthy environment that sustains them and upholds their dignity as humans. Why then should we differentiate between the CP and ESC rights?

Hart (1955) argued that if there are any natural rights, it is the right of people to be free. The right to be free should be inalienable. Cranston & Raphael (1967) contend that human rights are only applicable to CP rights like the liberty, freedom, life, etc. They claimed that ESC rights do not fall within the spectrum of human rights; because it pertains to a particular class of people not all humans. The implication, for example, is that a right to work is only applicable to those who can work, not to all humans. They defined human rights within the contexts of moral rights stating: 'human rights are a form of moral rights, and they differ from other moral rights in being the rights of all people at all times and in all situations.' The implication is the application to all in every situation; there are no conditions attached to it. The fact that a person is human entitles the person to human rights. He claims that ESC rights do not meet such criteria, and therefore, should not be considered as rights. Pogge (1995/2001) disagrees and argues that the

difference in implementation and who has the duty of care should be the guiding focus. He claims that 'all human beings have the same human rights, and human rights violations do not vary with whose human rights are at stake; as far as human rights are concerned, all human beings matter equally.' The argument is that everybody should be treated equally, and no human life is higher than another. However, for an act to be a violation, government, her agencies or a state supported corporation must be involved. The implication is that human rights duty is addressed to those who are in a position to solve it. However, Donnelly (2013) reasoned that CP rights might seem easy, simpler, and cheaper to maintain because it has been a tradition in most western countries as CP rights require 'only forbearance' from others while ESC rights 'requires others to provide goods, services or opportunities' (p.30). It will be presented that negative and positive dimensions of rights could apply to both CP and ESC. Donnelly contention is that it is easier to enforce the violation of CP rights in the Niger Delta than ESC rights, as it would require less from the stakeholders. This concept described as negative and positive rights will further be explicated in the later part of this paper within the framework of Shue (1996) basic rights. This violation in the Niger Delta denies the people the right to be humans which is a combination of both CP and ESC rights.

Improvement of CP rights in the Niger Delta cannot be successfully achieved in an atmosphere lacking ESC rights. The two rights should be integrated; at least within the Niger Delta (if not universally) CP rights should not be conceived and enacted separately from ESC rights. Neither a right to civil and political freedom nor a right to basic economic, cultural and social goods can effectively be actualized without the other; these two basic sets of human rights presuppose each other and thus are designed to guarantee each other (Shue, 1996). However, their protection and realization is not merely a matter of conceptual coherence; rights call for a basic structure of political and legal protections.

The dichotomy between the CP and ESC rights has been a source of debate. Which should come first? Which is more important? Are they a part of a continuum? These questions will be explored as we articulate the form of human rights in the Niger Delta. It can be argued that CP and ESC rights should be embodied in one basic conception of rights aimed at protecting the lives of the people. The lack of civic and political rights can be an infraction while the inability to provide social and economic rights is

explained as an omission. However, this goes against the explicit provision of article 25 of the UDHR, which states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. - Article 25.

Shue (1996) calls for basic rights as the means of advancement of society. He argues for subsistence, which is part of the ESC rights. He defined subsistence as “available for consumption what is needed for a decent chance at a reasonably healthy and active life of more or less normal length, bearing tragic interventions (p.23).” This definition is open-ended giving room for a lot of deliberation and possibility of reaching agreements. The basis for the enforcement of economic rights will rest on subsistence. The integration of aspects of the CP and ESC rights gives what Shue calls “basic rights.” Basic rights are the rights that are essential for the enjoyment of other rights. It serves as the building blocks for other rights that should not be surrendered for rights that are non-basic. These basic rights are the security of person, subsistence, and liberty. Shue argues, “basic rights are the morality of the depths. They specify the line no one is allowed to sink.” (p. 18). He further contended that basic rights are the minimum humanity expects to live a life of dignity nothing short of that is acceptable. Nussbaum (1997/2001) concurs that human right is based on our humanity and a clear linkage to the capability approach. She stated that

human right involves an especially urgent and morally justified claim that a person has, simply by being a human adult, and independently of membership in a particular nation, or class, or sex, or ethnic or religious or sexual group (p.228).

Nussbaum adds an elucidation that this right has no relationship to the station in life, implying that all are treated equally. However, there is a need for a clear linkage to combined capability, which usually involves both an internal component and an external component: a citizen who is systematically deprived of information about religion does not have religious liberty, even if the state imposes no barrier to religious choice. Therefore,

what is essential is the element of choice. Nussbaum further argues that on human rights combined capability is necessary for achieving the full potential of the individual. It is the provision of 'environment that is favorable for the exercise of practical reason and other major functions' (p. 227). She suggests that decisions are a product of social realities not made impulsively or autonomously of their conditions. She stated that: "if one cares about people's powers to choose a conception of the good, then one must care about the rest of the form of life that supports those powers, including material conditions..." (p. 227). How can one talk of the good in an atmosphere of environmental degradation, poverty, and neglect? The Niger Delta is a classic case of the element of choice not available for the people. If the capability is not possible, therefore the right to choose and be that which they cherish is lacking. Nussbaum is advocating for the complete restoration of the capability of the person to be that which they cherish. The CP rights do not guarantee the 'environment that is favorable for the exercise of practical reason and other major functions' without the ESC rights. If that combined capability is negated by agents of the state or corporate entities by commission or omission the people's rights are violated. Is it a question of positive or negative conceptions? Pogge (1995/2001) argues that human rights should encompass both positive and negative duties. This involves the art of protecting and the obligation to avoid conditions that might make it impossible for a person to live to their full potential. This is in line with the argument enshrined in the right of sustenance as articulated in Article 25. Pogge interpretation means that:

it involves no duty on everyone to help supply such necessities to those who would otherwise be without them. It rather involves a duty to citizens to ensure that the social order they collectively and coercively impose upon each of themselves is one under which each has secure access to these necessities, insofar as this is feasible (p. 203).

The essence is the need to build institutions that will make it possible, remove barriers and impediments. It is not a call for government intervention but a case of removing the obstacles that make it impossible for people to achieve their potential. Shue (1996:52) supported this argument when he argued that CP and ESC can both have positive and negative duties. For example, that the rights to food remain realized if the government does not intervene by encouraging export crops. The argument here is that social

and economic rights are accomplished without interference. He introduced three scenarios on duties as follows

1. Duties to avoid depriving - duties not to eliminate a person's only available means of subsistence
2. Duties to protect from deprivation - obligations to safeguard individuals against denial of the only possible means of living by other people.
3. Duties to aid the deprived - obligations to provide for the subsistence of those unable to provide for their own.

This argument implies that ESC rights can be negative rights imposing duties on government and others not to take actions that make people unable to have means of subsistence. The growth of the market economy and its degree of freedom means that to enforce a duty one should not make a profit or gain at the expense of other people. Therefore, there is a duty of Government not to make policies or take actions that might affect the people negatively. Thus, the 'ultimate guardian' of human rights is the people. Citizens must be vigilant and act as a check to those who have the power to violate their rights and those who are responsible for protecting those rights (Pogge, 1995/2001). The irony of the Niger Delta is that when people are pauperized and are barely able to sustain themselves, then their ability to check government is significantly impeded. There is a need therefore to begin the process of guaranteeing the people's subsistent needs. This will take the burden out of daily striving to scarp a living and replace it with a commitment to engage for both CP and ESC. It is argued in this paper that both are important. Hayden (2001) supported the importance of ESC when he stated that there had been arguments that a right to a healthy environment is necessary to enjoy the dignity and other rights. He further said the case that:

human life exists within the context of a natural environment and therefore that human rights depend upon the continued existence of a safe, healthy environment. While this may seem an obvious point, nevertheless, the destruction and degradation of the environment by human begins continue at a ferocious pace.environmental degradation contributes either directly or indirectly to violations of human rights (p. 375).

The degradation of the environment, depletion of scarce resources, and exploitation by corporations in the Niger Delta increases poverty and dependence. The inaction of the government made the people powerless and subjected to more human rights abuse. This becomes like a cyclic process of doom. Hayden (2001) concluded that unless a right to a healthy and sustainable environment is recognized and advocated, “other basic rights” (p.375) cannot be protected. How can an area (a group of people whose area) produces the wealth of a country be subject to extreme poverty and environmental degradation? The lack of a duty of care by the government is a significant factor (Sach 2015). The lack of empowerment exemplifies government offer to the poor what is political expedient thereby neglecting their plight. The many interventions which have not improved a lot of the people in the Niger Delta is a classic example of this attitude of platitude (Gledhill, 2003). On a global scale, the individualization of the UDHR makes it difficult to advocate for collective rights. However, that might be a lame excuse not to intervene because the victims are a poor minority in an ethnically divided nation. The problem is the lack of political will. Therefore, there is need to muster the political will to enforce certain fundamental rights which are essential to the enjoyment of other rights. Shue (1996) captures this in the Transitivity Principle: “If everyone has a right to Y, and the enjoyment of X is necessary for the enjoyment of Y, then everyone also has a right to X” (p. 32). The basic right is constitutive of, an essential component of other rights; they establish the conditions for the enjoyment of other rights. The substance is that fundamental rights are the building blocks for the attainment and satisfaction of other rights. These basic rights as stated above have an element of both CP and ESC. The contention of CP and ESC rights also goes with the implementation across the Niger Delta considered as a group. The UDHR in article 29 imposes both a duty and a right. It states: “Everyone has duties to the community in which alone the free and full development of his personality is possible.” The recognition of the importance of the person within the community shows a distinct relationship. Therefore, how can the people prosper and be that which they cherish if the support base of the community is systematically destroyed? How do we apply Human Rights in the Niger Delta?

Niger Delta, an Integral Approach to Human Rights

Human rights sustain life on earth; it a shield against political and economic forces that threats life. It is the limit beneath one should not sink.

However, the entitlement to the right is not complete if the rights cannot be enjoyed. Therefore, the existence of rights implies the establishment of a mechanism to enjoy such rights. The identification and documentation of rights violation in the Niger Delta has not led to improvement in the condition of living of the people. This paper explores an articulation of integrated human rights practices that can make a difference. Economic rights are essentials for people to survive, it is likened to physical security, and lack of the support structure can lead to an inability to live life to the full (Shue, 1996). The example by Shue is quite illustrative that while people might be able to fight off a physical attack, it might be terrible fighting off economic issues by sheer force. The financial wealth generated in the Niger Delta has not translated into prosperity for the people; the ardent environmental disasters and poverty make the people constant victims of human rights abuses. CP rights will not be attainable if the ESC rights are not enforced. Shue emphasized this when he argued that the enjoyment of the economic rights should not be just on paper, but there should be institutions that should make it possible. In the Niger Delta, these organizations are weak, and its impact and effectiveness are not felt in the region leaving the people vulnerable. These rights cannot be in a vacuum; it has to sit within the confine of the people and their identities and cultures; which is not static but subject to change.

Bobbio & Cameron (1997) stated that “The fundamental problem concerning human rights today is not so much how to justify them, but how to protect them. This issue is political, not philosophical (p.10).” ESC rights remain a subject of debate, especially the specification of who should have the duty to provide for and protect these rights. The implication is that cases of violations of human rights should be addressed instead of continuous discourse on the philosophical contents of human rights. Sachs (2015) argues that the interactions between the global society, economy, and environment, will not lead to better life for the people without the importance of governance. Good governance provides the social services that can lift people out of poverty making the role of government imperative. However, Sachs also acknowledged the role of Multinational Corporation who have a duty of care to operate in an environmentally sustainable manner. They have a social responsibility to eradicate poverty in the area they work. The multinational companies in the Niger Delta have not adequately fulfilled this need. Instead, there are allegations of instigating community violence, polluting the environment, and involvement in corrupt practices that

compromise both government officials and community leaders; all of these practices lead to the existence of extreme poverty. Sachs (2015) defines extreme poverty as the inability of individuals to meet basic human needs for food, water, shelter, sanitation, education, and livelihood. He further stated that some of the characteristics include no decent school, and where there are schools, no qualified teachers or facilities. Life in these situations is a daily struggle for dignity and survival he concluded. A careful reflection shows that majority of the people in the communities of Niger Delta live in the situation as described by Sachs.

Jover (2001) contended that the movement from CP to ESC is a continuum and changes cannot be uniform but based on the realities of the people. It is a framework that people should aspire. Habermas provided some guidance in the book: *Time of transitions*; he explained that human rights concept of equality, liberty, and freedom have a European origin, providing sources of hope, comfort, and mobilization for the activist in most developing countries. However, he supports the interpretation based on the reality of the people. In his words:

Notwithstanding their European origins, human rights today represent the universal language in which global relations can be normatively regulated. In Asia, Africa, and South America, they constitute the sole language in which the opponents and victims of murderous regimes and civil wars can raise their voices against violence, repression, and persecution, and against violations of their human dignity. But as human rights have won acceptance as a transcultural language, disagreements between cultures over their proper interpretation have also intensified. Insofar as this intercultural discourse on human rights is conducted in a spirit of reciprocal recognition, it can also lead the West to a decentered understanding of a normative construction that is no longer the property of Europeans and may no longer exclusively reflect the particularities of this one culture (Habermas, 2006; p. 155).

There are more than 5000 ethnic groups with a different interpretation of reality; which affects the conception of rights (Kymlicka, 1995). The traditional concept of human rights focuses on the dignity of the individual,

but the advocates of group right seem to suggest that individuals are custodians of the characteristics and identities of the group. The quest for an integrated approach for human right in the Niger Delta is perceived through the lens of the people as a group. Felice (1996) argue that in a society where groups struggle to get recognition and access, the weaker suffers. The elites in any society and the dominant powers monopolize power to their advantage. The configuration of Nigeria with the fight for control and resources leaves the less dominant group at a significant disadvantage. The people of the Niger Delta being a minority in a multiethnic country like Nigeria places them at a disadvantage. The basis of collective rights is to ensure that groups can benefit from the power to a decent living and development in their community in conformity with article 29 of the UDHR which imposes a duty and responsibility. The situation in the Niger Delta calls for the collective rights of the people respected and protected. Rights are socially constructed, there are products of events which can be historical, political, religious, economic or social. The reaction, outcomes, and effect of those affect shapes and define the rights established. The suffering and degradation of the environment of the Niger Delta necessitate a particular attention to the need of the people. This paper agrees with Shue that ESC should be framed within the context of subsistence rights. If one reflects critically on the situations in the Niger Delta, the conflict and militancy could have been avoided if one agrees with Shue where he argues that if respect for possession should be considered, then those who have no recourse should be provided for:

If people are prohibited by law from taking what they need to survive, and they are unable within existing economic institutions and policies to provide for their own survival (and the survival of dependents for whose welfare they are responsible). Are they entitled, as a last resort, to receive the essentials for survival from the remainder of humanity whose lives are not threatened? (p.25).

The militancy in the Niger Delta is a failure of the government to provide for the people. This argument is essential in the articulation of the survival of the people of the Niger Delta, for if the wealth from the region is used to develop the whole country, it makes decent sense that provisions are made for individual who has no means. This extended as that no one can enjoy civic and political rights if they have no way of enjoying a healthy

and active life. A person who has no home or means of livelihood cannot have the ability to exercise the civil and political rights. Take for example the right to vote. If the polling booth for voting is far from a person who has no means of livelihood or income, how can the individuals afford to transport to vote? Therefore, the ability to perform civic responsibilities depends on the economic rights of means of subsistence. Shue argues further that the inability to meet those needs can be “as fatal, incapacitating or painful as violations of physical security.” A person that does not have funds to buy medication when sick might not be alive to benefit from CP rights because the illness might increase leading to death. Shue contended that it would be likened to “firmly an arbitrary execution.” Therefore, if one is considering the situation in the Niger Delta where conditions are terrible, it will be fair to say that the lack of the economic rights that will encourage sustenance is equivalent to arbitrary condemnation to death for the people. There is a possibility of fighting off against anyone that wants to harm you, but who will you fight against when you are hungry or sick. This situation has led to repeated vandalization of government properties and oil installation as a means of venting anger and frustration. The violent confrontation with security agents leads to death for the people. These acts of violence have further compounded the situation in the region. This scenario enhances the need to make the ESC rights a predominant feature in the area. It should be linked to the rights to development.

Article 28 of the UDHR calls for an equal opportunity for each to develop to their full potential, it assists in the reduction and elimination of human suffering caused by both state and non-state actors. The people of the Niger Delta are not necessarily asking for charity but for equal opportunity to be that which they want. The concept of development should not always be defined and articulated within the prisms of economics terms, but social justice should play a prominent role. The systemic and structural impediment should be removed to enable the people to have a higher quality of life. Felice (1996) stated that “Justice requires that to treat each other as equals, we must recognize, and then alter, the mechanisms, including the economic structures, which cause suffering for particular groups” (p. 102). The duty to respect, protect, and aid the people will prevent the oppressive and unjust situation in the Niger Delta from continuing. The policies of the oil companies inhibit the people of the Niger Delta from achieving their full potential. The number of people living in poverty is alarming; ESC rights should be protected as an urgent matter of

human security. The people need to be empowered for collective action for change.

Conclusion

The people of the Niger Delta are not lazy nor lack wiliness to improve their lot, but the situation is based on the unique circumstances of being a minority in a multi-ethnic country; they have no choice. Felice, (1996) stated that “a genuinely democratic state would not only provide means for all peoples and groups to voice their claim but would also be responsive to the needs of those who suffer (p. 182).” The people of the Niger Delta are suffering, and there is a need for succor to come their way for them to be empowered to be that which they want and cherish in this post-conflict era.

All human beings pass from this earth, however, when their death is avoidable, then violence and injustice have occurred. When people are sick, there should be the provision of health facilities to treat them; this is the role of society in transforming the lives of the citizens. There should be the necessity of living with clean water, health, housing, food, etc. The provision of these will enhance the quality of life of the people. It will ensure life fulfillment, and its absence will lead to the inability to enjoy other rights. These are ESC linked; policies should be established to provide and sustained it, this gives impetus to ESC rights as the driving force. The mere thought of the absence of these rights is enough to destabilize people. Therefore, it is imperative that they are protected. Thus, PC and ESC should be enforced for the quality of life of the people. Shue (1996) argues that “to claim to guarantee people a right that they are in fact unable to exercise is fraudulent, like furnishing people with meal tickets but providing no food (p.27).” This is akin to government signing and agreeing on UDHR, but no substance to ensure that the people have a quality of life that the UDHR meant to enable. It is the same with government lip service to the protection of the citizens in the Niger Delta when the people are left with the vicissitudes of life and nature without any assistance.

It is the responsibility of Government to provide social guarantees protect the rights of all citizens; the weak and vulnerable in the Niger Delta should not be victims of social forces, which they have no control over. Shue summarized this argument with the Transitivity Principle; he stated: “if

everyone has a right to y, and the enjoyment of x is necessary for the enjoyment of y, then everyone has also had a right to x” (p.32). The implication and adaptation of this argument to the Niger Delta situation should be that the people of the Niger Delta has a right and desire political rights, but the enjoyment of the political rights depends on the availability of subsistence. It then follows from the transitivity principle that everybody to enjoy political rights need to have economic rights as well as a right to environmental sustainability. Therefore, as a matter of human rights and social justice the fundamental rights should be urgently addressed in the Niger Delta. The journey of transformation in the post-conflict Niger Delta should be in the integration of the CP and ESC rights. Priority should be given to ESC rights. There is a need for a proactive engagement, speaking out against violation is not enough, there has to be a concerted effort at empowerment to achieve and sustain an integrated structure of human rights in the Niger Delta.

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