

Giving Women a Voice in the Decision Making Process Towards Achieving Environmental Sustainability: The Case of Oil Drilling in the Niger Delta Region of Nigeria

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ABSTRACT

Oil drilling and its resultant effect, gas flaring, have put burdens on the shoulders of rural women who have a special interaction with the environment. Despite these dire consequences, women who are core stakeholders in the stewardship of the environment are underrepresented in the decision-making process. Based on the reviewed literature, this paper will examine the inequalities experienced by rural women of the Niger Delta Region, in the decision-making processes relating to environmental affairs in Nigeria. Using a gender lens of standpoint theory by feminist scholars (Dorothy Smith, Julia T. Wood, Shelia A.M Mclean, Angela D. Ledford), the paper argues that the adoption of gender impact assessment can result in environmentally sustainable laws and policies as well as practices that address issues of rural women. Relying on scholars of ecofeminism (Karen J. Warren, Mary Mellor, Ynestra King, Carolyn Merchant, Maria Mies and Vandana Shiva), it draws a connection between gender inequality, women, and the environment. Findings indicate, first, that international law such as the Convention on the Elimination of all Forms of Discrimination against Women recognises that the voices of rural women and their needs be heard and considered in all spheres of life, including rural development that has adverse effects on the environment. Secondly, improvement in environmental sustainability policies will require giving equal weight to the issues of women and men, as illustrated by the example from The Republic of Korea. As a result, this paper advocates that the Nigerian Government makes gender impact assessment a prerequisite before laws in the environmental field are passed. Carrying out Gender Impact Assessment remains a challenge for governments, including the Nigerian Government.

Keywords: Decision-making, Oil Drilling, Environmental Sustainability, Women's Voices.

INTRODUCTION

Oil drilling and its resultant effect, gas flaring, have put burdens on the shoulders of rural women who have a unique interaction with the environment. Despite these dire consequences, women who are core stakeholders in the stewardship of the environment are underrepresented in the decision-making process. In examining the inequalities experienced by rural women in the Niger Delta Region, the objective of this paper is to advocate that the Nigerian government makes gender impact assessment a prerequisite before policies and legislations in the environmental field are passed. Using a gender lens of standpoint theory by feminist scholars (Dorothy Smith, Julia T. Wood, Shelia A.M Mclean, Angela D. Ledford and Mary E. Swigonski), the main argument of this paper is that the adoption of gender impact assessment

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can result in environmentally sustainable laws and policies as well as practices that address issues of rural women. Relying on scholars of ecofeminism (Karen J. Warren, Mary Mellor, Ynestra King, Carolyn Merchant, Maria Mies and Vandana Shiva), it draws a connection between gender inequality, women, and the environment. It relies on primary and secondary sources. A limitation of this paper is that although I used both quantitative and qualitative studies in the analysis, face to face empirical research was not carried out. In advocacy work, it is essential to listen to the actual grievances of the people affected by oil drilling and gas flaring, which in this study refer to the vulnerable, oppressed and marginalized rural women residing in the Niger Delta Region of Nigeria. In this paper, the term policy making and decision-making will be used interchangeably. The decision-making process is restricted to environmental decision-making.

Using the gender lens, part one examines the theoretical framework on gender inequality and analyses the impact of oil drilling on rural women. Part two investigates the international and national legal framework(s) relating to gender impact assessment and the judicial attitude. Part three advocates a gender impact assessment in Nigeria.

PART ONE: THEORETICAL FRAMEWORK: USING A GENDER LENS

Part one uses the gender lens to examine the theoretical framework on gender inequality and analyses the impact of oil drilling on rural women. According to West & Zimmerman, gender is not inborn but it has a way of having an impact on our lives at birth.¹ It is imposed by society and culture through gender roles.² In differentiating between Gender and Sex Esplen & Jolly stated thus:

“...gender is an acquired identity that is learned, changes over time and varies widely within and across cultures. Gender is relational and refers not simply to women or men but to the relationship between them, whereas biological sex is determined by genetic and anatomical characteristics.”³

This means that while gender can be said to be socially and culturally constructed, sex is biologically construed. Sex is the biological, natural and physical difference between a man and a woman. This paper uses a gender lens to examine the resulting gender inequalities from

¹Candace West and Don H. Zimmerman, “Doing Gender,” *Gender and Society* 1, no 2 (1987): 137, accessed November 23, 2015,

http://www.gla.ac.uk/0t4/crcees/files/summerschool/readings/WestZimmerman_1987_DoingGender.pdf

² Ibid.

³ Emily Esplen and Susie Jolly, “Gender and Sex: A Sample of definition,” *Institute of Development Studies University of Sussex*, (2006), accessed November 23, 2015,

http://www.iwte.org/ideas/15_definitions.pdf.

the impact of oil drilling on rural women in the Niger Delta.T

The United Nations defines gender inequality as a “characteristic of most societies, with males on average better positioned in social, economic, and political hierarchies.”⁴ Gender inequality occurs when the different needs, aspirations, and behaviour of women and men are not treated equally.⁵ It is important to give equal weight to the issues of women and men to improve policies regarding environmental sustainability. That can be achieved by carrying out a Gender Impact Assessment.

Crawley and O’Meara perceive a Gender Impact Assessment (GIA) as an act of investigating policies and practices to see if they will impact women and men in a different way.⁶ A GIA is a fundamental tool that helps decision makers in the environmental field to assess and take into consideration the effect of a proposed policy on rural women.⁷ It reveals and helps to avoid any form of unintended discrimination against rural women. Where adequately conducted, it gives policy makers the visibility of the different needs, characteristics, priorities and behaviours that exist among women.⁸ The effect of carrying out a GIA will aid decision makers in deciding whether the proposed policy requires an amendment where gender discrimination is traced.⁹ The outcome of such an exercise will directly or indirectly influence decision-making and help confirm if the presumption on gender-neutral policy or legal framework(s) is valid. To achieve this, a GIA must be done at the initial stage of planning policy development.¹⁰ The implication of proper use of GIA for the decision-making process can vary by context. This includes the promotion of gender equality and empowerment of women, enhanced fundamental rights for rural women, ensured environmental sustainability while combating climate change, eradication of extreme poverty,

⁴ United Nations, *Humanity Divided: Confronting Inequality in Developing Countries* (New York: United Nations Development Programme, 2013), 162, http://www.undp.org/content/dam/undp/library/Poverty%20Reduction/Inclusive%20development/Humanity%20Divided/HumanityDivided_Full-Report.pdf.

⁵ Marie Crawley and Louise O’Meara, *Gender Impact Assessment Handbook* (Northern Ireland: First Minister and Deputy First Minister, 2004), 8, <http://www.ofmdfmini.gov.uk/gender-impact-assessment-handbook.pdf>

⁶ Ibid

⁷ Mieke Verloo and Connie Roggeband, “Gender Impact Assessment: The Development of a New Instrument in the Netherlands,” *Impact Assessment* 14, no. 1 (1996): 3, doi: 10.1080/07349165.1996.9725883.

⁸ National Commission for the Promotion of Equality, *Gender mainstreaming in Practice: Step-By-Step Guide for Gender Impact Assessment* (Malta: National Commission for the Promotion of Equality, 2010), 27.

⁹ Ibid., 29.

¹⁰ Ibid., 28.

food insecurity and hunger, improve maternal health and reduce child mortality.¹¹ The paper uses standpoint theory to argue that the adoption of gender impact assessment can result in environmentally sustainable laws and policies as well as practices that address issues of rural women in Nigeria.

Dalton defines feminism as:

...the range of committed inquiry and activity dedicated first, to *describing* [Emphasis mine] women's subordination-exploring its nature and extent; dedicated second, to asking both *how* [Emphasis mine]-through what mechanisms, and *why* [Emphasis mine]-for what complex and interwoven reasons women continue to occupy that position; and dedicated third to change.¹²

The issues of women and their subordinate position are described by feminist scholars using the concept of gender inequality. Feminists are of the view that because we live in a patriarchal society, for men are placed at the top level of the hierarchy.¹³ They emphasise the need to help oppressed women "find their voices and have their words heard and respected."¹⁴ Standpoint theorists, for example, criticise the power relations that exist between men and women and the inequalities faced by women. The Standpoint theory was christened and developed in the 80s.¹⁵ Renowned feminist standpoint theorists include Dorothy Smith and Julia T. Wood. Others are Shelia A.M Mclean, Angela D. Ledford, and Mary E Swigonski. Feminist Standpoint Theory has its foundation in the Marxist approach relating to classes.¹⁶ From the standpoint view, feminists like Smith recognise that inequality exists between women and men as classes where men continue to dominate women.¹⁷ Men perceive women as "objects" and as a result, women's consciousness, imagination, experience, knowledge, and relevance do not matter to men ("the ruling class").¹⁸ She advocates that women's views, which are common to the extent that they are excluded from the activities of the society be

¹¹ The GIA can aid in achieving some of the Sustainable Development Goals of Nigeria.

¹² Clare Dalton, "Where We Stand: Observations on the Situation of Feminist Legal Thought," *Berkeley Journal of Gender, Law & Justice* 3, no.1 (2013): 2, accessed December 1, 2015, <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1013&context=bglj>.

¹³ Mary Joe Frug, *Postmodern Legal Feminism* (Great Britain: Routledge, 1992).

¹⁴ Sara Motta et al, "Feminism, Women's Movements and Women in Movement," *Interface a Journal for and about Social Movements* 3(2), no.1 (2011): 7, accessed December 1, 2015, <http://www.interfacejournal.net/wordpress/wp-content/uploads/2011/12/Interface-3-2-editorial.pdf>.

¹⁵ Julia T. Wood, "Feminist Standpoint Theory and Muted Group Theory: Commonalities and Divergences," *Women and Language* 28, no 2 (2005): 61, accessed December 1, 2015,

¹⁶ *Ibid.*

¹⁷ Dorothy E. Smith, *The Everyday World as Problematic: a Feminist Sociology* (Boston: North-eastern University Press, 1987), 51.

¹⁸ *Ibid.*

incorporated when the ruling class makes decisions.¹⁹ She argues that if women are silenced and excluded from the decision-making process, their welfare is not considered.²⁰ Of importance to her is to find ways to include women into the activities of society and treat women and men equally.²¹

Swigonski,²² writing from a standpoint perspective has reasoned that what reality means for the oppressed is very much different from how the ruling and dominant class define it. Constant domination on the part of the oppressed (i.e., women) has made them see life from different ends and, at the same time, craft various ways of survival. As a result, they are regarded as having the potential for “double consciousness” and “double vision.”²³ Wood, in contributing to the scholarship of this theory is of the view that, unlike standpoint theorists who are usually generic to wanting to ask and understand “what we know if we start from a subordinated group’s experiences,” for feminist standpoint theorist the question is always “what we know if we start from the women’s lives.”²⁴

McLean asserts that whether discrimination is evident or not, it remains significant to the most vulnerable group in a given society.²⁵ However, she posits that law has a major contribution to make in eliminating discriminatory practices. To her, though the law may appear slow, it can achieve this by employing sanctions accompanied by an effective legal enforcement agent.²⁶ Furthermore, for the law to be reasonably neutral and positively affect the ability of oppressed individuals and enable them to “participate fully and freely in the life of society,” the “law itself must be critically analysed.”²⁷ From the afore-mentioned, McLean, like other feminist scholars, recognizes that “sex-based discrimination” exists. Also, she asserts that discriminatory acts can be eliminated through a strengthened legal process. It can be inferred from the wordings of McLean that one possible way of achieving free participation of rural women in societal decision-making and critically analysing the law for sex-based

¹⁹ Ibid., 78.

²⁰ Ibid., 85.

²¹ Ibid., 86.

²² Mary E. Swigonski, “The Logic of Feminist Standpoint Theory for Social Work Research,” *National Association of Social Workers*, Inc 39, no.2 (1994): 387, accessed December 3, 2015, <http://search.ebscohost.com/login.aspx?direct=true&db=fyh&AN=FYH1190585070&site=ehost-live>.

²³ Ibid., 390.

²⁴ Wood, “Feminist Standpoint Theory and Muted Group,” 62.

²⁵ Sheila A.M McLean, “The Legal Relevance of Gender: Some Aspects of Sex-Based Discrimination,” in *The Legal Relevance of Gender: Some Aspects of Sex-Based Discrimination*, eds. Sheila McLean and Noreen Burrows, (Atlantic Highland: Humanities Press International INC, 1988), 1.

²⁶ Ibid., 2.

²⁷ Ibid., 2.

discrimination is by adopting GIA as a tool.

Ledford opines that giving women a voice and satisfying women's issues means women's ability to have a "dignified and meaningful life"²⁸ that can be measured by indicators such as having adequate access to resources including but not limited to: physical health, a safe environment, quality education, sufficient income, good jobs and housing. She points out that women are usually under-represented in decision-making processes, both regarding presence and interest. As a matter of justice and decency, Ledford argues that it becomes urgently necessary to find other ways of empowering marginalised women.²⁹

Common to standpoint feminist scholars is the fact that effective and efficient policy and/or decision-making process begins with investigating the perspective of marginalized and disproportionately vulnerable rural women to understand how and why they are oppressed. They are also dedicated to change to improve the lives of women through a strengthened legal process. The links ecofeminists draw between gender inequality, women, and the environment is now shown.

The words ecological and feminism, when put together, make up the concept ecofeminism.³⁰ The idea was originated in 1974 by Francoise d'Eaubonne³¹ to express the link that exists between the inequality and oppression made against women and the exploitation of the natural environment.³² This linkage raises various feminist issues. Warren perceives and defines "feminist issues" to include: environmental degradation and exploitation, things that cause harm to the physical environment, food production, and food security. Others are carrying water and fetching firewood, gender inequality, domestic activities that create a glass ceiling for women without giving them an opportunity to participate in decision-making processes and the inability to contribute to household needs.³³ Specifically, Mellor notes that the developmental process from the 70s and 80s brought about a significant impact on women and the environment. To her, this era clearly revealed the link between the experiences of

²⁸ Angela D. Ledford, *Group Representation, Feminist Theory, and the Promise of Justice* (England: Ashgate Publishing Limited, 2012), 2.

²⁹ Ibid.

³⁰ Karen J. Warren, "The Power and the Promise of Ecological," *Environment Ethic* 12 (1990): 125, accessed December 1, 2015,

https://www.pdcnet.org/collection/authorizedshow?id=environethics_1990_0012_0002_0125_0146&file_type=pdf&page=1.

³¹ Ibid.

³² Ibid.

³³ Ibid.

women and environmental issues.³⁴ Similarly, King, describing women as the “other” in human society, recognises the inability of women to have their voices heard in the public domain.³⁵ In contributing to the exploitation made on the environment and its correlation to the oppression made against women, King acknowledges that poor women disproportionately bear a significant amount of the cost of environmental pollution.³⁶ She comments that “in the project of building western industrial civilization, nature became something to be dominated, overcome, and made to serve the needs of men.”³⁷ The true purpose of the environment became altered as the natural resources were explored and exploited by men.³⁸ This view Mies and Shiva corroborate by showing that attention has only been given to natural resources that bring about gain to men in a capitalist society while ignoring those that do not bring profits.³⁹ This has led to the destruction of the environment, which Merchant describes as the death of nature.⁴⁰

From the above, it is clear that there is a relationship between gender inequality, the environment, and women. The subsection that follows uses a gender lens to examine the inequalities experienced by rural women in the Niger Delta Region of Nigeria as a result of oil drilling. The section will apply the feminist and ecofeminist framework to analyse the impact of oil drilling on rural women.

Oil spillage happens to be one of the major consequences of oil drilling in the Niger Delta region that fundamentally affects the health of women and their source of livelihood.⁴¹ Oil spillage occurs as a result of overpressure, overflow, leakages, corrosion or age of the pipelines, etc.⁴² It causes unproductivity of the fertile land used by women to farm. Oil spillage pollutes fresh water causing more pains for women who engage in fishing and farming

³⁴ Mary Mellor, *Feminism & Ecology* (New York: New York University Press, 1997), 26.

³⁵ Ynestra King, “The Ecology of Feminism and the Feminism of Ecology,” in *Ecology and Feminist Theology*, eds. Mary Heather Mackinnon and Moni McIntyre (Kansas City: Sheed & Ward, c 1995), 459.

³⁶ *Ibid.*, 457.

³⁷ *Ibid.*, 459.

³⁸ *Ibid.*, 459.

³⁹ Maria Mies and Vandana Shiva, *Ecofeminism* (Halifax, N.S: Fernwood Publications, 1993), 24.

⁴⁰ Carolyn Merchant, “The Scientific Revolution and The Death of Nature,” *History Science Society* 97, no. 3(2006): 513, accessed December 3, 2015, <http://nature.berkeley.edu/departments/espm/env-hist/articles/84.pdf>.

⁴¹ United Nations, *Niger Delta Human Development Report* (Abuja: United Nations Development Programme, 2006), http://hdr.undp.org/sites/default/files/nigeria_hdr_report.pdf.

⁴² O.T Badejo and P.C Nwilo, “Management of Oil Spill Dispersal Along the Nigerian Coastal Areas,” *International Society for Photogrammetry & Remote Sensing* XXXV, no. B7 (2004), accessed December 3, 2015, <http://www.isprs.org/proceedings/XXXV/congress/comm7/comm7.aspx>.

activities. In 2015, a report by Amnesty International reveals that four oil spillage sites⁴³ in the region claimed to have been cleaned up and remediated by Shell in 1975, 2011 and 2012 respectively remain polluted.⁴⁴ The consequence of this for rural women is devastating since the farm lands, and water supplies on which they depend for their livelihoods are destroyed. Parallel to oil spillage is its twin issue, gas flaring. Gas flaring is a major contributor to climate change. On the one part, it impacts on the health and livelihood of women. Its consequences on the health of women include acute lymphocyte leukaemia, asthma, respiratory symptoms, toxic residues in breast milk, skin disease, painful breathing, reproductive health issues, coughing, cancer and premature deaths.⁴⁵ On another part, oil spillage and gas flaring affect the livelihoods of women through climate change and land degradation. The resulting food insecurity, pollution of potable water, as well as loss of aquatic ecosystems causes women to become more impoverished.⁴⁶ A 2012 International Fund for Agricultural Development report shows that climate change has brought about new challenges for poor women in the rural area and as a result, they “fare worse” than the men carrying health consequences.⁴⁷ These gender inequalities call for more investigation to learn more about how and why they happen. The subsection that follows will focus on the concept of gender inequalities emphasizing how and why gender inequalities have increased between men and women as a result of oil drilling activities in the Niger Delta Region.

How and why have gender inequalities increased between men and women in the Niger Delta Region as a result of oil drilling activities? The United Nations Development Programme (UNDP) Gender Inequality Index⁴⁸ in 2013 revealed that gender-based inequalities exist in three areas, namely: economic activity, reproductive and empowerment processes. With respect to economic activities, the dominant presence of the Multinational Oil Companies (MNO) carrying out drilling activities in the region has led to the reduction of these three major

⁴³ Boobanabe, Bomu Manifold, Barabeedom swamp and Okuluebu. See Amnesty International, *Clean It Up: Shell's False Claims about Oil Spill Response in the Niger Delta* (London: Amnesty International, 2015), 4, <https://www.amnesty.org/en/documents/afr44/2746/2015/en/>.

⁴⁴ Ibid.

⁴⁵ Michael Keania Karikpo, *Mired in a Fossil Trap: The Nigerian CDM Report* (Benin: Environmental Rights Action/Friends of the Earth Nigeria, 2011), 40, <http://eraction.org/publications/Mired%20in%20Fossil%20Trap.pdf>.

⁴⁶ Ibid., 41.

⁴⁷ International Fund for Agricultural Development (IFAD), *Gender Equality and Women's Empowerment: Policy* (Rome: International Fund for Agricultural Development United Nations, 2012), 5.

⁴⁸ United Nations, “Nigeria: HDI Values and Rank Changes in the 2013 Human Development Report,” *United Nations Development Programme*, 2013 accessed November 23, 2015, <http://hdr.undp.org/sites/default/files/Country-Profiles/NGA.pdf>.

economic activities in the Niger Delta region.⁴⁹ Forestry, fishing, and farming are the primary occupations of rural women.⁵⁰ It means that the economic earning of women in this region relies heavily on the natural resources embedded in the environment. The United Nations Development Program on Niger Delta reports that forestry, farming and fishing accounts for 44 per cent of the main occupation in the region.⁵¹ At the same time, the Food and Agriculture Report shows that Nigeria is ranked as number one with almost 2 million people engaged in fishery activities.⁵² In Nigeria, fish is sourced from the river, sea, inland waters and ponds. Rural women in the Niger Delta primarily control fishing activities that they produce, process, distribute and market to end users.⁵³ Recent statistics show that more than 50 per cent of rural women contribute to agricultural activities and food production.⁵⁴ Also, for economic gains, they engage in post-harvest activities such as the sale of cooked food and processed agricultural products.⁵⁵ Women began to lose their farmlands and agricultural products, their major source of livelihood to the act of oil drilling.

Similarly, gender-based inequalities exist through the reproductive processes. For instance, the report of the Millennium Development Goals: improve maternal health, revealed that for more than 20 years, unsatisfactory improvement had been made by the Nigerian government towards achieving an improved maternal health and nothing exists to show an improved maternal health was reached in 2015.⁵⁶ At the same time, the United Nations Development Programme report on Niger Delta (UNDP report) indicates that infant child mortality rates are in the range of 105 per 1,000 live births while the maternal death rate is in the region of 704 for every 100,000 women.⁵⁷ Some improvement is noted in the reduction of the ratio of maternal mortality. However, when compared to jurisdictions like the United

⁴⁹ UN, *Niger Delta*, 25.

⁵⁰ UN, *Niger Delta*, 25.

⁵¹ UN, *Niger Delta*, 5.

⁵² Food and Agriculture Organization of the United Nations, *The State of World Fisheries and Aquaculture: Opportunities and Challenges* (Rome: Food and Agriculture Organization of the United Nations, 2014), PDF e-book, 3.

⁵³ Stella Williams, *Economic Role of Women in Fishing Communities: A Case Study of Koko, Nigeria Programme for the Integrated Development of Artisanal in West Africa, Cotonou, Benin* (Cotonou: Food and Agriculture Organization of the United Nations, 1996), 1, <http://www.fao.org/3/a-x0231e.pdf>.

⁵⁴ SOFA Team and Cheryl Doss, "The Role of Women in Agriculture," ESA Working Paper 11-02, Food and Agriculture Organization of the United Nations Rome, Italy, 2011. 8, <http://www.fao.org/docrep/013/am307e/am307e00.pdf>.

⁵⁵ Williams, *Economic Role of Women in Fishing Communities*, 7.

⁵⁶ World Bank, "Reproductive Health at a Glance: Nigeria," *World Bank*, 2011, <http://siteresources.worldbank.org/INTPRH/Resources/376374-1303736328719/Nigeria42211web.pdf>.

⁵⁷ UN, *Niger Delta*, 25.

Kingdom having eight maternal death rates for every 100,000 live birth, South Africa having 140 maternal death rates for every 100,000 live births, 560 maternal death rates per 100,000 live births in the case of Nigeria is considerably higher.⁵⁸ Furthermore, according to the World Bank, “Gender equality and women’s empowerment are essential for improving reproductive health. A Higher level of women’s autonomy, education, wages and labour market participation are associated with improved reproductive health outcomes.”⁵⁹

Before discussing the effect of oil drilling on the empowerment of women, it is important to put gender inequalities in a historical context. The Niger Delta Region comprises the following oil producing states, Ondo, Imo, Edo, Akwa Ibom, Abia, Cross River, Delta, Bayelsa, and Rivers.⁶⁰ Before the colonial era, women in the Niger Delta Region of Nigeria, who can now be described as “victims of ecological crisis,” were very much involved in activities related to the natural environment and their interests were represented at all levels in Nigeria. Women were very influential in all spheres, including environmental, economic, community and political activities. Politically, for example, in 1929, women were at the forefront of the Aba women riot.⁶¹ However, the quests for development premised on the exploration and exploitation of oil and the advent of the colonial masters into Nigeria brought an end to such participation and inclusiveness both in formal and informal decision-making processes.⁶² Mellor has pointed out that “capitalism, colonialism, militarism, and fundamentalism were male-dominated structures that oppressed women.” To her, these “contributed to women’s experience of impoverishment, exploitation, sexual violence and political and social marginalization.”⁶³ Marginalization means that a particular group (ruling class) intentionally disempowers or excludes another group (oppressed) from having access to resources common to them.⁶⁴ For instance, “neglect, non-involvement or inequity in the distribution of the socio and political resources of the state” is marginalization.⁶⁵ In Nigeria,

⁵⁸ United Nations, “Human Development Reports,” *United Nations Development Programme*, 2015, accessed December 3, 2015, <http://hdr.undp.org/en/composite/GII>.

⁵⁹ World Bank, “Reproductive Health.”

⁶⁰ Federal Republic of Nigeria, *Niger Delta Regional Development Master Plan: Niger Delta Region Land and People* (Port Harcourt: Niger Delta Development Commission, 2006), 88, <http://www.nddc.gov.ng/NDRMP%20Chapter%201.pdf>.

⁶¹ Eschel M. Rhodie, *Discrimination Against Women: A Global Survey of the Economic, Educational, political Status of Women* (Jefferson: McFarland & Company, Inc., 1989), 115.

⁶² *Ibid.*

⁶³ Mellor, *Feminism & Ecology*, 32.

⁶⁴ Obianyo Nkolika E., “Citizenship and Ethnic Militia Politics in Nigeria-Marginalization or Identity Question? - The Case of MASSOB” (Presentation, 3rd Global Conference on Pluralism Inclusion and Citizen, Salzburg Austria, November 18-19, 2007).

⁶⁵ *Ibid.*, 6.

examples are supporting the above views.

Regarding impoverishment, the economic earning of rural women in the Niger Delta region have declined due to oil drilling. As noted above, the economic earning of women in this region relies heavily on the natural resources embedded in the environment which has been degraded due to oil drilling. An obvious example of the impoverishment of women that result from the effects of oil drilling is the reported testimony of the women of Bayelsa State in the Niger Delta Region. It was indicated that the effect of oil exploration and exploitation carried out on their land had destroyed their farmlands and rivers from which they fish and make a source of living. As such, they are unable to finance the education of their children.⁶⁶ Concerning sexual violence, various events have taken place that has affected women in this region. The developmental process by the multinational oil companies has brought about an increase in sexual violence against women. Women in the area have been treated in an inhumane manner. For example, in 1999, many women were raped and over fifty were killed by soldiers who were deployed to stop the non-violent civil disobedience of women against oil drilling and gas flaring in the region.⁶⁷ Additionally, empirical research carried out revealed that rural women in the Bayelsa State of Nigeria had suffered rape, deaths, injury and kidnap.⁶⁸ The cry of women is, “who will bail us from this modern colonialism and imperialism in the Niger Delta”?⁶⁹ These sufferings endured by rural women have acted as a strong motivation for the desire for transformation.

At the same time, rural women in the Niger Delta have experienced political marginalization. According to Natufe, politics is a tool used by the ruling class to oppress the disadvantaged group. “It is a struggle of contending ideological viewpoints on the allocation

⁶⁶ Micheal Folami Olankunle, “Women’s Response to the Question of Development in the Niger Delta, Nigeria,” *Journal of Comparative Research in Anthropology & Sociology* 1, no.1 (2010): 144, accessed November 3, 2015, http://doctorat.sas.unibuc.ro/wp-content/uploads/2010/10/MichaelFolami_Compaso2010.pdf.

⁶⁷ Terisa E. Turner and Leigh Brownhill, “Climate Justice and Nigeria Women’s Gift to Humanity,” *Women & Environment* 74/75 (2007): 47, accessed December 1, 2015, <http://web.a.ebscohost.com/ehost/detail/detail?vid=6&sid=e8b707d6-7551-4644-93eb-f63133931c92%40sessionmgr4001&hid=4212&bdata=JnNpdGU9ZWhvc3QtbGl2ZQ%3d%3d#AN=24347568&db=a9h>.

. See “The Destruction of Odi and Rape in Choba,” Human Right Watch, last modified December 22, 1999, <https://www.hrw.org/legacy/press/1999/dec/nibg1299.htm>.

⁶⁸ Olankunle, “Women’s Response to the Question,” 144.

⁶⁹ Olankunle, “Women’s Response to the Question,” 144.

and distribution of resources.”⁷⁰ Women from Delta State who were interviewed about the oil proceed to admit that the Nigeria government spend it on “white elephant projects,” but these projects do not take into consideration their interest.⁷¹ Drawing from Natufe, there are examples in Nigeria to show that rural women who are particularly involved with the environment have been politically marginalized. These marginalized and oppressed women have from time to time tried to make their voices heard. They have advocated change in the way oil drilling activities are carried out in the region, particularly as it relates to the destruction of the environment, but remain silenced by men whom feminists have described above as the ruling class.⁷² Although studies show that rural women in the region participate in rallies, voting and joining political parties of their choice during elections,⁷³ the difficulty remains with having them participate in the environmental decision-making process. As stated by Verba, Schlozman, and Brady, political participation means an “activity that has the intent or effect of influencing government action either directly by affecting the making or implementation of public policy or indirectly by influencing the selection of the people who make those policies.”⁷⁴

From the above, participation of rural women in political activities goes beyond voting and representation in government or political parties to include their interest in policy making.⁷⁵ It is their right. The consequence of this participation in practice will mean directly or indirectly influencing the reasoning of government in the making of public policies, particularly in the environmental field, to include the issues of women. Is this the case in Nigeria? In Nigeria, rural women are mostly given the required attention during the period of election. Politicians get to meet with them and make many promises so as to have these women cast their votes on behalf of the politicians. After elections, the relationship between the women and the winners breaks down irretrievably in most cases. An obvious example is the recently

⁷⁰ O. Igho Natufe, “Resistance Politics: An Essay on the Future of Nigeria” (Presentation, International Conference on the Challenges and opportunities of Globalization at the Dawn of the Millennium, April 11-14, 2001).

⁷¹ Olankunle, “Women’s Response to the Question,” 145

⁷² Samuel Chukwudi Agunyai, Temitayo Isaac Odeyemi, and Kayode Wakili Olawoyin, “Women and Politics of Marginalisation in Niger-Delta Are of Nigeria,” *Journal Research in Peace, Gender and Development* 4, no. 4 (2014): 56, doi: <http://dx.doi.org/10.14303/jrpgd.2013.113>.

⁷³ Ibid.

⁷⁴ Sidney Verba, Kay Lehman Schlozman, and Henry E. Brady, *Voice and Equality: Civic Voluntarism in American Politics* (Cambridge: Harvard University Press, 1995), 9, 38. “activity that is intended to or has the consequence of affecting, either directly or indirectly, government action.”

⁷⁵ “Political Participation,” *United Nations*, accessed December 3, 2015, <http://www.un.org/womenwatch/osagi/wps/publication/Chapter3.htm>.

elected president of Nigeria, General Mohammadu Buhari Rtd. who stated that if women vote for him, their votes will not be taken for granted. He further promised to implement the National Gender Policy if elected.⁷⁶ Although this statement was made during his campaign, it remains to be realistically achieved. What does this imply for rural women? Rural women continue to face challenges that perpetuate inequalities⁷⁷ as a result of exclusion and relegation because genuine participation is not achieved where empty promises are made. Participation is important because women are core stakeholders and primary caretakers of the natural environment. As already observed, rural women as head of households rely on the natural resources for their daily sustenance and for that of their immediate family and the community.⁷⁸ They also engage in informal business such as selling fish and other farm products which they cultivate to make ends meet.

Last but not least, women suffer from social marginalization in the Niger Delta. In this region, women are unable to be self-reliant and have a meaningful life due to the lack of basic social amenities like roads, houses, schools, modern markets, transportation, adequate power supply, sufficient energy service, hospitals, good maternity clinics, job opportunities, education, waste management, water supply etc. For example, the National Bureau of Statistics 2005 on Niger Delta reported that water in the region is from supply facilities that are unsafe such as ponds, lakes, unprotected wells, rivers, and borehole.⁷⁹ The UNDP Report on Niger Delta documents that only 24 per cent of the rural communities have access to safe drinking water.⁸⁰ On access to power supply and energy service, the report shows that only 34 percent use electrical lighting, while 61 percent use kerosene or lantern. Firewood accounts for 73 percent of energy source, followed by 24.8 percent for kerosene and 1.2 percent for gas.⁸¹ Also, access to health care service is poor in the region. The report shows that the few existing public health care centres are dilapidated and need urgent repairs. The health centres lack medical practitioners and necessary medical tools.⁸² The consequence of this is that women have no

⁷⁶ "We Will Implement 2005 National Gender Policy-Buhari," *Vanguard*, last modified March 20, 2015, <http://www.vanguardngr.com/2015/03/we-will-implement-2005-national-gender-policy-buhari/>.

⁷⁷ Cowen Dziva, Peter Makaye and Brain Dube, "No Easy Walk Through Primary Elections for Rural Women in Zimbabwe," *IOSR Journal of Humanities and Social Science* 13, no. 6 (2013): 50, accessed November 23, 2015, <http://www.iosrjournals.org/iosr-jhss/papers/Vol13-issue6/H01365057.pdf?id=3400>.

⁷⁸ Bina Agarwal, "Conceptualising Environmental collective action: Why matters," *Cambridge Journal of Economics* 24, (2000): 286, accessed November 23, 2015, https://www.amherst.edu/media/view/92346/original/conceptualizing_environmental_collective_action.pdf.

⁷⁹ UN, *Niger Delta*, 27.

⁸⁰ UN, *Niger Delta*, 28.

⁸¹ UN, *Niger Delta*, 29.

⁸² UN, *Niger Delta*, 29.

choice but to continue to rely on the use of natural products from the environment for traditional medicinal purposes.⁸³ Women use different leaves called “mgborogu” or “agbo gedi”⁸⁴ from the forest to treat diseases such as malaria, typhoid, pile, etc. Despite this, their voices are not directly heard when policies and laws concerning the management of the natural environment are made. This lack of participation usually is a result of the inequalities experienced in areas such as education, occupation, culture bias on gender and legislation.⁸⁵ The very low human development ranking in Nigeria illustrates this situation adequately. In 2011, the World Bank report on Nigeria showed that gender inequalities are reflected in the “country’s human development ranking.” According to the report, the Gender-related Development Index ranks Nigeria as 139 out of 157 countries.⁸⁶ What can be done to reduce the gender inequalities?

Niger Delta women have always requested that they are treated equally and fairly. Demand for systemic change that will bring an end to all forms of discrimination⁸⁷ has long been advocated for by rural women involved in agricultural activities in the region. The fact remains that oil activities in this region have brought about blessing to Nigeria but also curses particularly on women. In a bid to change the situation, women in the region have had several non-violent demonstrations to end the burning of natural gas in the region.⁸⁸

Despite experiences of domination, studies show how, for thirteen years, women prevented multinational oil companies from carrying out oil activities and releasing toxic emission.⁸⁹ Women have created avenues such as conferences to voice out on the oil impact of environmental degradation and its consequences on women.⁹⁰ In furtherance to this, some efforts have been made at the government level to bring about change through the Environmental Impact Assessment Act⁹¹ (EIA Act). The aim of the EIA Act is among others to take into account and/or establish to what extent an activity intended to be carried out by any

⁸³ IFAD, *Gender Equality and Women’s Empowerment*, 10.

⁸⁴ Names of herbal medicines as pronounced in the eastern and western part of Nigeria.

⁸⁵ Japan International Cooperation Agency, *Federal Republic of Nigeria Study for Poverty Profile (Africa): Final Report* (S.l.: Japan International Cooperation Agency, 2011), 15, accessed December 3, 2015, http://www.jica.go.jp/activities/issues/poverty/profile/pdf/nig_02.pdf. For example, religious laws (such as Islamic laws) and customary laws that deprive women from the control and ownership of immovable properties like land and the freedom of movement. See also *Paragraphs 2.6*.

⁸⁶ World Bank, “Reproductive Health.”

⁸⁷ Natufe, “Resistance Politics.”

⁸⁸ Terisa and Brownhill, “Climate Justice and Nigeria,” 47.

⁸⁹ Terisa and Brownhill, “Climate Justice and Nigeria,” 47.

⁹⁰ Celestina Ihayer, Doris Fovwe Ogeleka, and Theresa Ifeyinwa Ataine, “The Effect of Niger Delta Oil Crisis on Women Folks,” *Journal of African Studies and Development* 6, no.1 (2014): 20, accessed December 1, 2015, doi: 10.5897/JASD11.078.

⁹¹ Environmental Impact Assessment Act of 2004, c E12 (2004).

public or private actors will affect the environment before decisions are taken.⁹² Although the EIA is the first point of call to resolving environmental degradation caused by oil drilling, the problem is that its focus seems to tilt towards the environment while paying no initial attention to the most vulnerable gender upon which the cost of a polluted environment is placed. It is no surprising that its effectiveness has been challenged. For instance, litigants that included women of the Niger Delta communities have gone to court because MNOC failed to conduct an environmental impact assessment in the region as provided for in section 2(2) of the Act. As such, the continued flaring of gas violated their rights to a clean poison-free, pollution free and healthy environment.⁹³ The EIA Act has failed to fulfil the purpose of a GIA and address the needs of rural women. The reason for this can perhaps be because the EIA has failed to take into account the nexus that exists between women and nature. This, in the opinion of ecofeminists, will amount to an inadequate law.⁹⁴

From the above, it can be seen that women continue to be the most vulnerable and suffer “double marginalization due to gender disparity.”⁹⁵ There is an inadequate environmental sustainability policy. At the same time, voices of women continue to be marginalized. Since these inequalities have been shown to exist and have increased, what follows is to investigate the international and national legal frameworks to see what measures are available to take into consideration the concerns of women.

PART TWO: LEGAL FRAMEWORKS FOR GENDER IMPACT ASSESSMENT

Gender impact assessment and gender inequality are two concepts that are recognised and given attention both at various international and national levels. For example, internationally, to deal with the issue of gender inequality, the United Nations General Assembly adopted the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 1979.⁹⁶ This section will examine some examples of international and national legal frameworks to see the position of the law on gender inequality and what measures are available

⁹² *Ibid*, s.1.

⁹³ *Gbemre v Shell Petroleum Development Co and Others* [2005]; FHC/B/CS/53/05 (FHC).

⁹⁴ Karen J. Warren, “The Power and the Promise of Ecological,” *Environmental Ethics* 12, (1990): 126, accessed November 23, 2015,

https://www.pdcnet.org/collection/authorizedshow?id=enviroethics_1990_0012_0002_0125_0146&file_type=pdf&page=1.

⁹⁵ UN, *Niger Delta*, 17.

⁹⁶ United Nations General Assembly, *Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)*, prepared by United Nations General Assembly Resolution 34/180, A. 27 (1), 1979.

to take into consideration the concerns of women. I begin with the Convention on the Elimination of all Forms of Discrimination against Women.

Though the CEDAW may not have specifically used the phrase GIA, the concept is firmly inferred in article 14, as discussed below. The language of the CEDAW, as contained in its preamble, makes it the first international instrument to make specific reference⁹⁷ to a connection between human rights and equal rights of men and women. It is the earliest international mechanism to recognise that voices of women need to be heard and considered in all spheres of life. It also acknowledges the need for the Member States to take urgent steps to incorporate in their “national constitutions or appropriate legislation” principles that will eliminate any form of discriminatory act that can be made against women⁹⁸ while ensuring the full development and advancement of women.⁹⁹ Also included in the CEDAW is a need for States to ensure that rights of women are legally protected by a court of competent jurisdiction and without limitation.¹⁰⁰ By adopting, signing, ratifying and accession member States, including Nigeria, become legally bound by the provisions of the CEDAW.¹⁰¹

In its article 7, the CEDAW specifically makes provisions for women’s “participation in the formulation of government policy.” More relevant to this paper, article 14 of the CEDAW makes the Member States responsible for issues confronted by rural women in rural developmental planning. It recognises that States have the responsibility to take into consideration the significant roles played by rural women in the economic survival of their families.¹⁰² Furthermore, it mandates States to take *appropriate measures* [Emphasis added] to eliminate inequalities made against women in rural areas and ensure that rural women participate in all levels of developmental planning and decision-making process. The CEDAW mandates States to use appropriate measures to redress “particular problems faced by rural women” in the areas of agricultural credit and loans, health care, education and training, market facilities, economic opportunities through employment or self-employment, technology, housing, water supply, communication, sanitation, electricity, communication.¹⁰³ This

⁹⁷ United Nations Women, “Convention on the Elimination of all Forms of Discrimination against Women: Short History of CEDAW Convention” accessed December 1, 2015, <http://www.un.org/womenwatch/daw/cedaw/history.htm>.

⁹⁸ UN General Assembly, CEDAW, A. 2(a).

⁹⁹ UN General Assembly, CEDAW, A. 3.

¹⁰⁰ UN General Assembly, CEDAW, A. 2(b).

¹⁰¹ UN General Assembly, CEDAW, A. 29(2). See UN Women, “Convention on the Elimination,” 97.

¹⁰² UN General Assembly, CEDAW, A. 14.

¹⁰³ UN General Assembly, CEDAW, A. 14(2) (a) (b) (c) (d) and (e).

provision, using the words of feminists, will confer a dignified and meaningful life for rural women if implemented.

What follows is The Report of the United Nations Fourth World Conference on Women. This framework re-echoed the need to give women a voice and incorporate their issues into developmental planning, decision, and policymaking process while treating them equally.¹⁰⁴

In 1995, member States of the United Nations came together to reaffirm their commitment to the Convention on the Elimination of All Forms of Discrimination against Women and to strategize on a “platform for action.” In furtherance to this, fourteen years after the CEDAW came into force in 1981, Member States endorsed and adopted the “Beijing Declaration and Platform for Action.”¹⁰⁵ This thereafter produced the Report of the Fourth World Conference on Women. More important to this paper is the section made on women and the environment. At the conference, parties agreed that specific attention and recognition is required to be given to rural women and those working in the agricultural field such as the women in the Niger Delta region who in many ways, as already stated, suffer disproportionately from a lot of issues, including health due to environmental degradation.¹⁰⁶

Parties acknowledged that women depended on the environment to provide food for their family and as managers of natural resources, they played a major role in promoting sustainable development for present and future generations.¹⁰⁷ Furthermore, that experiences of women and their voices remain disregarded at all stages of policy formulation and decision-making processes, particularly as they relate to conservation, protection, rehabilitation and management of the environment and the natural resources embedded in it.¹⁰⁸ In line with the marginalization faced by women during decision-making and policymaking process, parties committed to finding new developmental plans that will integrate the concerns and experiences of women into environmental policy formulation.¹⁰⁹ The rationale behind this integration is that any improved sustainable development policies will require equal consideration of the issues of women and men.¹¹⁰

The government is required to “*promote an active and visible policy of mainstreaming*

¹⁰⁴ United Nations, *Report of the Fourth World Conference on Women*, Paragraphs 8, 13, 1995.

¹⁰⁵ United Nations, *Report of the Fourth World*.

¹⁰⁶ United Nations, *Report of the Fourth World*, Paragraph 247.

¹⁰⁷ United Nations, *Report of the Fourth World*, Paragraph 248.

¹⁰⁸ United Nations, *Report of the Fourth World*, Paragraph 249.

¹⁰⁹ United Nations, *Report of the Fourth World*, Paragraphs 248, 249.

¹¹⁰ United Nations, *Report of the Fourth World*, Paragraph 251.

a gender perspective in all policies and programmes ...before decisions are taken” [Emphasis mine].¹¹¹ In summary, “Platform for Action” means: 1) the Government ensuring that women are actively involved and at all levels in environmental decision-making, 2) the Government incorporating gender perspectives and issues into policies and programmes for sustainable development and 3) establishing at all level of environmental governance (including national, regional and international) *a well-strengthened mechanisms “to assess the impact of development and environmental policies on women.”* [Emphasis added]¹¹² This means that government parties evaluate the impact of developmental planning and environmental policies to understand if such policies or decisions will affect women and men differently before they are passed. It is evident that a gender impact assessment remains a prerequisite for member States at the formation stage of the environmental decision-making process. It is important to mention that the above aligns with feminists who assert that free participation of the most vulnerable and oppressed group in decision-making requires a legal process that must be critically analysed.¹¹³

Thus, CEDAW and United Nations Fourth World Conference on Women, usually referred to as the Bill of Rights¹¹⁴ are the foundations upon which the GIA is based. This legal framework can be said to be the basis of many governments, such as the European Union and The Republic of Korean government, adopting the gender impact assessment as a tool for incorporating issues of women. What follows is to investigate national legislations beginning with that of The Republic of Korea.

The Constitution of the Republic of Korea is one of the oldest national Constitutions to have taken cognisance of the importance of gender inequality.¹¹⁵ The first Constitution was adopted on the 17th of July, 1948 and since then, it has been amended nine times.¹¹⁶ The last amendment was in 1988.¹¹⁷ Article 11¹¹⁸ of the said Constitution eliminates all forms of discrimination that may be made on account of sex etc. Specifically, Article 35,¹¹⁹ which provides that all citizens have a “right to a healthy and pleasant environment.” From the

¹¹¹ United Nations, *Report of the Fourth World*, Paragraph 252.

¹¹² United Nations, *Report of the Fourth World*, Paragraph 253, 256, 258.

¹¹³ Sheila A.M McLean, “The Legal Relevance of Gender,” 25.

¹¹⁴ “Global Issues: Women,” *United Nations*, accessed December 3, 2015, <http://www.un.org/en/globalissues/women/>.

¹¹⁵ Adopted in 1948.

¹¹⁶ Constitution of The Republic of Korea (1948), 1.

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*, art 11.

¹¹⁹ *Ibid.*, art 35.

contents of the above articles, it is safe to conclude that the Constitution of the Republic of Korea gave rise to other national legislation such as the Framework Act on Women's Development, 2010.¹²⁰ This rich legislation, which I explain below, makes necessary provision for gender equality and women participation but goes beyond it to providing that Gender Impact Assessment be used as a tool for integrating the problems of rural women into public policies and legislation process. Thus, it gives women an opportunity to participate genuinely in policy formulation.

The Framework Act on Women's Development, 2010, was enacted with the awareness that gender inequality amongst sexes in a given society is a reality and not a myth.¹²¹ From the provisions contained in the articles, this Act came into being to give women a voice in policy making. Chapter three of the Act makes a strong inference of using GIA to promote the welfare of women and include their concerns into the decision-making process. For example, Article 15 makes it the duty of the State and local government to ensure the participation of women in decision and policy making.¹²² Finally, the Act provides that the State and Local Government shall provide measures to meet the needs of women's welfare in accordance with the change of social structure and to use the best efforts to improve the well-being of rural women who depend on agriculture and fishing.¹²³

In 2011, the Government of The Republic of Korea enacted the Gender Impact Assessment Act. The Act provides for the national and local governments to carry out a GIA in the design and implementation of all laws that will one way or the other have an impact and defeat the principle of gender equality.¹²⁴ Consequently, it can be argued that the Act go beyond just giving women a voice to making provisions for ways of ensuring that issues of women are considered and gender incorporated in all decision-making processes, including cultural rights (relating to environmental rights).¹²⁵ The provisions of the 2011 Act apply to all laws, projects, and decrees of both central and local governments. The Act provides that GIA is carried out on government activities and that all existing guidelines are revised to ensure that GIA is

¹²⁰ Framework Act on Women's Development of 2010, No. 10303 (2010).

¹²¹ "The Women's Development Act," *Ministry of Political Affairs- Republic of Korea*, accessed December 3, 2015, <http://www.un.org/esa/gopher-data/conf/fwew/natrep/NatActPlans/korea/korea1>.

¹²² Framework Act, art 33.

¹²³ Framework Act, art 22.

¹²⁴ Gender Impact Assessment Act of 2011, No. 11046 art 2 (2011).

¹²⁵ Alison Dundes Renteln, "Environmental Right vs Cultural Rights," *Carnegie Council Ethics International affairs*, last modified April 24, 2004, www.carnegiecouncil.org/publications/archive/dialogue/2_11/section_2/4453.html (In some cases, it can be said that "environmental rights claims conflict with cultural rights claims...").

reflected.¹²⁶ Since the adoption and utilization of the GIA in 2004, it has been a success story as demonstrated by the Situation Report presented in the section below.

In 2010, at the 54th session of the Commission on the status of women, the then Minister for Gender Equality, Dr. Paik Hee Young, stated that gender equality in Korea is considered where new policies are to be established.¹²⁷ She said that GIA was first utilized as a tool in 2004 for “10 pilot projects managed by nine government bodies.”¹²⁸ The minister stated that after that, subsequent government projects had undergone such assessment. For example, in 2009, 1,908 projects from 298 government bodies were assessed. Interestingly, in many cases, the outcome of the assessment was incorporated in law reforms and “policy improvements.”¹²⁹ However, she identified that issues such as urbanization, an increase in the wealth gap, climate change and an ageing society might hinder the necessary development of the rights of women.¹³⁰

Two years later, in 2012, at the 56th session of the Commission on the status of women, Kim Kum-lae, the then Minister for Gender Equality and Family emphasized how the needs of women are now being incorporated in Korean policy frameworks. For example, in her statement, she noted that the third framework plan for the period of 2011-2015 being implemented by the Korean Government is adopted for the purpose of promoting the quality of life of rural women as well as their rights and interests.¹³¹ By the language of the plan, the government guaranteed to take a favourable step in improving the position of the rural women involved in fishing and farming while “increasing their participation in the policymaking process.”¹³² Similarly, the Fourth Framework plan, which was launched in 2013 for the period of 2013-2017, addresses policy issues such as the health of rural women and the need for participation of elderly women in the society.¹³³

Another two years later, in 2014 Ms. Cho Yoon-Sun, the Minister of Gender Equality

¹²⁶ H.E. Ms. Cho Yoon-Sun, Minister of Gender Equality and Family of the Republic of Korea, Statement at the 58th Session of the Commission on the Status of Women, New York (March 11, 2014), 3.

¹²⁷ Paik Hee Young, Minister of Gender Equality and Family of the Republic of Korea, Statement at the 54th Session of the Commission on the Status of Women, New York (March 2, 2010), 3,

http://www.un.org/womenwatch/daw/beijing15/general_discussion/Republic%20of%20Korea.pdf.

¹²⁸ Ibid., 2.

¹²⁹ Ibid., 2.

¹³⁰ Ibid., 6.

¹³¹ Kim Kum-lae, Minister of Gender Equality and Family of the Republic of Korea, Statement at the 56th Session of the Commission on the Status of Women, New York (February 28, 2012), 2,

<http://www.un.org/womenwatch/daw/csw/csw56/general-discussions/member-states/RoK.PDF>.

¹³² Ibid., 2.

¹³³ Ibid., 4

and Family of the Republic of Korea noted that since 2013 GIA was utilized as a tool by 44 central governments in assessing 1,569 projects and in the case of the local government, it was used in evaluating 18,000 projects.¹³⁴ I now discuss judicial attitudes toward GIA.

While The Republic of Korea can be considered a success story where GIA is concerned, in other jurisdictions litigants, have gone to court to contest issues arising from the failure to conduct a Gender Impact Assessment. For example, in *The Queen on the Application of Janet Harris v London Borough of Haringey*,¹³⁵ the claimant brought an action against the Defendant (the Council) for granting “interested parties” the permission to redevelop a site known as “Ward Corners” at Tottenham. The area is mainly “made up of local independent traders.”¹³⁶ One of the issues for determination was that the Council failed to carry out its duties in accordance with, among others, the Sex Discrimination Act, 1975 and the “Equality Public Duties Scheme (2007-2010)”.¹³⁷ The contention of the claimant was that by virtue of sections 2 and 3 of the Scheme, the Council is specifically required to conduct an equality impact assessment, which included a gender impact assessment before any significant decision could be taken.¹³⁸ Instead of specifically conducting an impact assessment in the local community as required by the Scheme, the Council carried out extensive consultation.¹³⁹ The Court held the act of extensive consultation undertaken by the Council to be valid even though it admitted that the Act was not based on a formal equalities impact assessment.¹⁴⁰

It is important to mention that before the Court delivered its judgement, it recognised that the jurisprudence on the gender impact assessment is far from “embryonic.”¹⁴¹ Perhaps, this can be inferred as the reason for the Court arriving at its decision. On this note, it is hopeful that this decision will be reviewed in the future. Going by the claimant’s contention, the provisions of the Scheme was evident as to the fact that a specific conduct of the impact assessment was required to be carried out by the Council. Not to comply with the provisions of the Scheme means blatant disobedience of the said provisions. This case may not have been in favour of the claimant, but it shows that the GIA has begun to gain judicial recognition and

¹³⁴ Cho Yoon-Sun, 58th Session, 3

¹³⁵ *The Queen on the Application of Janet Harris v London Borough of Haringey*, [2009]; EWHC 2329 (HCJ) 38.

¹³⁶ *Ibid.*, 39.

¹³⁷ *Ibid.*, 68.

¹³⁸ *Ibid.*, 68.

¹³⁹ *Ibid.*, 73.

¹⁴⁰ *Ibid.*, 76.

¹⁴¹ *Ibid.*, 73.

citizens are starting to be aware of their right to participate in policy formulation and decision-making process. While this may be so, Nigeria seems to present a contrasting scenario.

NATIONAL LEGISLATION: A CASE STUDY OF NIGERIA

Section 15(2)¹⁴² provides thus:

“Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.”

From the above, the Constitution tends to be gender-neutral as it categorically states that “national integration shall be actively encouraged without any form of discrimination.” By this provision, the Constitution intends that equality remains the watchword in all spheres of life. Laudable, one may say. Unfortunately, this section, which comes under Chapter II of the Constitution,¹⁴³ has no legal backing as it remains non-justiciable.¹⁴⁴ This means that where the concerns of women are not integrated as provided by the Constitution, they have no choice but to stay silent in their pains. The provisions of the Nigerian Constitution become contrary to Article 2(b) of the CEDAW, which makes provision for an effective legal protection of women against any form of discrimination. Perhaps this explains the position taken by the World Bank and UNDP reports mentioned above regarding inequalities in Nigeria. It must be recalled that by ratifying the CEDAW, the Nigerian Government agrees to be legally bound by the provisions, particularly as it relates to taking into consideration the specific issues confronted by rural women while having respect for their fundamental human rights. The government agrees to include women in the implementation and participation of all levels of developmental planning, whether environmental, social, political and economic¹⁴⁵ and to ensure that rural women such as those in the Niger Delta Region have the right to rural development as well as access to adequate social amenities.¹⁴⁶ Additionally, the Nigerian government also commits to pursuing equality between men and women¹⁴⁷ with the aim of

¹⁴² Constitution of Nigeria (1999), c C23.

¹⁴³ Ibid. (“fundamental Objectives and Directives Principles of State Policy”, Chapter II).

¹⁴⁴ Ibid. s 6(6) (c) provides that judicial powers shall not, except as otherwise provided by the Constitution extend to matters within Chapter II. However, in *Archbishop Anthony Olubunmi Okojie v Attorney General of Lagos State*, [1981]; NCLR 220 (HC), the court held that sections under Chapter II which includes sec. 15 have to be given the same legal effect with fundamental rights provided for under chapter IV of the same Constitution. This means that sec. 15 shall be treated as justiciable. *See also* sec. 42(2) which provides for freedom of discrimination.

¹⁴⁵ UN General Assembly, CEDAW, A. 14(2) (a).

¹⁴⁶ UN General Assembly, CEDAW, A. 14(2) (h).

¹⁴⁷ UN General Assembly, CEDAW, A. 23.

achieving equal rights for men and women.¹⁴⁸ This seems not to be the case in the real world. For instance, a former Minister for Women Affairs of the Federal Republic of Nigeria, Inna Maryam Ciroma, acknowledged that discrimination exists in the “Constitution, national and state statute, customary and religious laws.”

Yet the National Gender Policy was drafted in 2006 in line with promoting gender equality and achieving sustainable development in all sectors, including the environmental field.¹⁴⁹ The policy aims at guiding the implementation of various commitments made at all levels of government for the achievement of gender equality and equity, women development as well as empowerment.¹⁵⁰ The policy acknowledges that women are primary users of the natural resources embedded in the environment and bear greater burdens than men when the environment is degraded.¹⁵¹ According to the policy, achieving environmental sustainability requires meeting social needs, effectively protecting the environment, meeting efficient utilization of natural resources and maintaining economic growth and employment rate at a high but stable level.¹⁵² Furthermore, the policy takes cognizance of the fact that due to the age-long traditional patriarchal and capitalist economic system operational in Nigeria, policy makers fail to take into consideration the concerns of women in public decision-making.¹⁵³ The objectives of the National Gender Policy are among others for policy makers to; 1) ensure that women and men are equally involved in matters relating to environmental use and management before policies are passed and plans and programmes are implemented,¹⁵⁴ 2) see that distribution of natural resources and environmental management is gender responsive, and 3) ensure that a gender impact assessment is done before the passing and/or implementation of environmental policies, programmes and projects so as to understand if such a policy will have a different impact on women.¹⁵⁵

From the preceding, the policy has been drafted in such a way that it appears women

¹⁴⁸ UN General Assembly, CEDAW, A. 24.

¹⁴⁹ Inna Maryam Ciroma, *National Gender Policy Federal Republic of Nigeria: Situation Analysis/Framework* (Abuja: The Federal Ministry of Women Affairs and Social Development Abuja, 2006) <http://cewhin.org/pdf/National%20Gender%20PolicySituation%20Analysis.pdf>

¹⁵⁰ Salamatu Hussaini Suleiman, Honourable Minister of Women Affairs and Social Development of The Federal Republic of Nigeria, Statement at the 54th Session of the Commission on the Status of Women, New York (March 3 2010), 1, http://www.un.org/womenwatch/daw/beijing15/general_discussion/NIGERIA.pdf.

¹⁵¹ Ciroma, *National Gender Policy*, 33.

¹⁵² Ciroma, *National Gender Policy*, 32.

¹⁵³ Ciroma, *National Gender Policy*, 36.

¹⁵⁴ Ciroma, *National Gender Policy*, 71.

¹⁵⁵ Ciroma, *National Gender Policy*, 71.

issues in the environmental field are given priority before policies on the environment are passed. In theory, this may be so, but in practice, adoption and implementation of this policy remain impossible, probably because of obstacles such as lack of finance, education, etc.¹⁵⁶ Environmental policies still fail to take into consideration the issues of rural women and as such, they continue to face increasing marginalization, as already pointed out above. Indeed, in 2010 the former Minister of Women Affairs and Social Development of Nigeria, Salamatu Hussaini Suleiman stated thus:

“In the area of health, child, and maternal mortality remain key challenges in Nigeria..., wide disparities still exist between rural and urban centres...Most of these treatable and preventable deaths are largely due to low maternal education and awareness, inadequate manpower, weak primary health care (PHC) system, poverty and poor household practices, among others.”¹⁵⁷

The National Gender Policy is yet to be implemented as can be seen from President Buhari stated mentioned above.¹⁵⁸ Rural women still face a lot of environmental, social, economic and political challenges and have remained silenced for so long. The reason for this may be with the provision of section 15 which is non-justiciable. The section raises doubt as to the true intention of the Nigerian Government with respect to promoting gender equality. Like Nigeria, The Republic of Korea is a signatory to the CEDAW.¹⁵⁹ Unlike the Government of Korea, Nigeria has not implemented and effectively utilized the GIA into various projects and has yielded no success stories.

PART THREE: WHY DO A GENDER IMPACT ASSESSMENT?

Premised on success stories achieved in The Republic of Korea, this part advocates that the Nigerian Government make gender impact assessment a prerequisite before policy formulation and decision-making is carried out in the environmental field.

The rationale behind the paper’s advocacy for GIA is that “Sustainable development will be an elusive goal unless women’s contribution to environmental management is

¹⁵⁶ See paragraphs 3.2.2 below for details.

¹⁵⁷ Salamatu Hussaini Suleiman, 54th Session, 3.

¹⁵⁸ “We Will Implement 2005 National Gender Policy-Buhari,” *Vanguard*, last modified March 20, 2015, <http://www.vanguardngr.com/2015/03/we-will-implement-2005-national-gender-policy-buhari/>.

¹⁵⁹ United Nations, *The Convention on Elimination of all Forms of Discrimination Against Women and its Optional Protocol: Handbook for Parliamentarians* (Switzerland: United Nations Headquarters, 2003), 23, http://www.ipu.org/PDF/publications/cedaw_en.pdf.

recognised and supported.”¹⁶⁰ In most cases, policies at all levels are presumed to have a gender-neutral effect. Verloo and Roggeband consider this assumption as a myth rather than a reality,¹⁶¹ while Crawley and O’Meara point out that policies usually have an inequitable impact on men and women.¹⁶² The significance of a GIA is to make certain that a particular political measure such as policies, practices, plans, programmes and administrative actions will not have a differing impact on women. The justification for carrying out a gender impact assessment in the environmental field is to ensure that such policies do not worsen but rather, reasonably address existing inequalities. A GIA gives policy makers an opportunity to improve upon or amend policies that are confirmed to be gender biased before such policies are passed.

The Associated Gas Re-Injection Act¹⁶³ and Associated Gas Re-Injection (continued flaring of gas) Regulations¹⁶⁴ which allows for the continued flaring of gas, provides clear examples of how a gender impact assessment would have been utilized to assess the differential effect of such legislation on men and women in the Niger Delta Region. Similarly, the disproportionate consequences of oil drilling on rural women make it necessary for policy makers to utilize a GIA at the formation stage of environmental policies. This will enable them to analyse issues of rural women in the region and to adopt and implement only policies that can address these perpetuated inequalities. The paper advocates that a GIA be conducted on all environmental policies at the formation stage, even if gender inequality is not the focus of such policies or policy maker(s). The reason is that where policy makers do not inquire and understand the peculiar experiences of rural women in the oil drilling region and incorporate these issues before policies are passed, environmental unsustainability will continue.¹⁶⁵

If policy makers are mandated first to carry out a GIA, before policies are formulated, but do not, citizens can challenge it in court, as was done in the case of *The Queen on the Application of Janet Harris v London Borough of Haringey*. The implication of this is that policy makers will be put on their toes to see that environmental policies address the issues of women. A GIA need not be located in one single document but needs to be located within all legislative and policy contexts,¹⁶⁶ as is the practice in The Republic of Korea. Women voices

¹⁶⁰ United Nations, *Report of the Fourth World*, Paragraph 251.

¹⁶¹ Verloo and Roggeband, “Gender Impact Assessment,” 3.

¹⁶² Crawley and O’Meara, *Gender Impact Assessment Handbook*, 2.

¹⁶³ Associated Gas Re-injection Act of 2004, c A 25 (2004).

¹⁶⁴ Associated Gas Re-Injection (continued flaring of gas) Regulations of 2004, c A25 (2004).

¹⁶⁵ United Nations, *Report of the Fourth World*, Paragraph 251.

¹⁶⁶ Crawley and O’Meara, *Gender Impact Assessment Handbook*, 4.

will be heard, and their interest and rights will be dealt with as much as that of their male counterparts where governmental agencies through legislation, regulations, policies, practices, and programmes ensure that a GIA is included in legal documents and first conducted at the planning stage of projects.¹⁶⁷ The resultant effect will mean either avoiding or minimising the negative impact of oil drilling activities on women.¹⁶⁸ GIA helps identify the environmental, political and socio-economic needs of rural women which include: 1) their ability to access and be involved in the management of natural resources such as agricultural sector, rural development, infrastructure, land, water, etc.¹⁶⁹ and 2) the ability to have access and be involved in political participation, employment, education, health, credit lines etc.¹⁷⁰

ADVANTAGES AND OBSTACLES TO CONDUCTING A GIA

Advocating a GIA does not remove the reality that it has both its advantages and obstacles. This subsection will consider the advantages and possible obstacles to utilizing GIA.

The Advantages of GIA is It enables policy makers to formulate

- environmental policies that align with a sustainable rural developmental process;
- It shows that the Nigerian government has respect for human rights and intends to achieve its environmental sustainability goals;
- It helps policy makers directly understand experiences of rural women and at the same time have their voices heard through their participation in environmental decision-making process;
- It promotes sustainable environmental policies.

In Nigeria, factors that may limit the voices, experiences, and issues of rural women to be integrated by policy makers before environmental decision-making are made include the following:

- Lack of Finance: Getting around to deal with the needs of women in the Niger Delta region may be considered too expensive for the government who already have a tight budget and as such, this may not be given the priority it deserves.
- Lack of Education: Most rural women in the Niger Delta Region are not educated. Collecting data from these women may prove difficult due to the language barrier. Also,

¹⁶⁷ Michael Simon, *Balancing the Scales: Using Gender Impact Assessment in Hydropower Development* (Australia: Oxfam, 2013), 11 https://wle-mekong.cgiar.org/download/mk13-gender-in-hydropower/MK13_Gender-Impact-Manual.pdf.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid., 13

¹⁷⁰ Ibid., 13.

lack of education may impede rural women from seeing the negative consequences of the gender roles that need to be addressed.

- **Lack of Time:** Women are overburdened with gender roles and, as such, may be unable to attend to such important assessment.¹⁷¹ The process of conducting a GIA can be complex and time-consuming, which may lead policy formulation to become lengthy and tedious.

In line with the above obstacles, the International Fund for Agricultural Development reports that rural women lack a voice in decision-making as because: “Cultural norms and practices, lack of education and self-confidence, and a shortage of time inhibit women’s ability to contribute to decision-making at all levels – from household and community to national...”¹⁷²

CONCLUSION AND RECOMMENDATION

The consequences of oil drilling and gas flaring on the environment can be interpreted to mean death for rural women who depend majorly on the benefits of a healthy environment to survive. Where the environment is continuously degraded, rural women suffer numerous forms of vulnerability, impoverishment, marginalisation and oppression. Hence, this calls for policy change on the part of the Nigerian Government. For the government to attain its environmental sustainability goals, laws, and policies, decision-makers must first understand and incorporate the standpoint of rural women at the stage of policy formulation before adopting and implementing the same. Where women are excluded from the policy formulation and decision-making process, they remain in perpetual agony. This means that environmental policies cannot be passed based on the standpoint of decision makers. They must include the viewpoint of the most vulnerable gender where the act of oil drilling is carried out with the aim of addressing their issues. To achieve this, the way forward identified by this paper is for the Nigerian Government to require that a GIA is done. It is also recommended that section 15 of the 1999 Constitution of Nigeria be amended and made justiciable so as to give the court the competence it requires to adjudicate on matters of inequality and the implementation of GIA.

Further research can investigate the effectiveness of GIA in incorporating the problems of rural women at the formation stage of the decision-making process in Nigeria to see if these recommendations are visible. In addition, empirical studies can be undertaken to evaluate the results of the above recommendations.

¹⁷¹ IFAD, *Gender Equality and Women’s Empowerment*, 12.

¹⁷² IFAD, *Gender Equality and Women’s Empowerment*, 12.

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