



HUMAN RIGHTS IMPLICATIONS OF THE RIGHT TO SAFER ENVIRONMENT AND DRINKING WATER IN OGONI LAND: A LEGAL INVESTIGATIVE APPROACH

IGWE, Williams O¹. and OSARO, Ebiemere¹

¹Faculty of Law, Rivers State University of Science and Technology
Port Harcourt, Nigeria

ABSTRACT

Water is essential to life. Even a casual appraisal of this statement will reveal a content and meaning that are widely ignored, but nonetheless represents a harsh reality in many parts of the world, Nigeria inclusive. The truth is that fresh water and access to drinking water have always been a crucial factor in the viability and success of civilizations. The extent to which the availability of this vital element contributes to both social well-being and economic productivity is still too often ignored, although many economic and social activities depend on a supply of good-quality drinking water. It is against this background that we investigated the human rights implications of the right to a safer environment and drinking water in Ogoni communities in the Niger Delta of Nigeria. By adopting the legal investigative approach, we affirmed the previous studies that suggested that the Ogoni people are alienated people, ignored and neglected by both private oil and gas corporations and the government of Nigeria. We conclude that, a concerted effort channeled towards saving Ogoni land is an effort directed towards saving the habitat, our global heritage.

Keywords: Ogoni, Human Rights, Environment, Water Safety, Nigeria.

1. INTRODUCTION

Since drinking water is a vital resource for humanity, it is one of the basic human rights and closely linked to the other rights of the individual. For instance, giving water to a seed causes it to germinate and life to begin. The loss of water may have serious consequences for humans if it amounts to 10 percent of body mass and may cause death if it reaches 20 percent or more. Moreso, the experts assure us that water, which always contains various minerals and organic substances, constitutes 58-67 per cent of body weight among healthy adult males and 66-74 percent among newborns.² When over a billion people are short of this source of life, our species has reason to be alarmed.

² See, El Hadji Guisse, "Relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation", E/CN.4/Sub.2/2002/10, p.3

Some 1.5 billion people today have no access to safe drinking water and almost 4 billion are without adequate sanitation services.³ The World Health Organization WHO estimates that 80 per cent of illnesses are transmitted by contaminated water. This evidently results from the fact that only a small number of people, particularly in developing countries, have access to water of satisfactory quality.

The world's fresh water resources represent only 3 per cent of the total volume of waters, nonetheless all human activities depend on them. Fresh water is crucial to meet household needs, which nonetheless use only 6 percent of available resources. It also plays a pivotal role in sanitation, agriculture, industry, urban development, energy production, fisheries, transport, leisure activities and many other human endeavours. It is therefore necessary to recognize the multi-sectoral dimension of the development of water resources in the content of socio-economic development.

Drinking water access and quality continue to be a fundamental problem, since according to UNDP estimate,⁴ some 3 billion people will suffer water shortages by the year 2025. Accessing drinking water and sanitation is a matter for humanity because water is a vital resource concern. In virtue of Article 2, paragraph 1 of the Declaration on the Right to Development,⁵ the human person is the central subject of development and should be the active participant and beneficiary of that right. Also, by the provision of chapter II, paragraph 5 of the Programme of Action, of the World Summit for Social Development,⁶ the need to create "public awareness that the satisfaction of basic human needs is an essential element of poverty reduction; these needs are closely interrelated and comprise nutrition, health, water and sanitation, education, employment, housing and participation in cultural and social life" was stressed. Essentially, this creation of public awareness also involves implementing sustainable development programmes which are geared towards two layers: (a) At integrating the requirements of the conservation and protection of the natural environment; and (b) At strengthening the capability of civil society and local communities to participate actively in the preparation and implementation of social programmes, by education and access to resources.

It therefore becomes compelling to strengthen the capacities and opportunities of all people, especially those who are disadvantaged or vulnerable, to enhance their own economic and social development, to establish and maintain organizations representing their interests and to be involved in the planning and implementation of government policies and programmes by which they will be directly affected.

It is in the light of the foregoing and in the strength of the environmental assessment of Ogoni land by the United Nations Environmental Programme (UNEP)⁷ that this paper highlights the right to drinking water and sanitation in Ogoni land. In realizing this objective, the paper will describe Ogoni land, pointing out its geography and the consequences of oil exploitation as it affects water in that region; the legal basis of the right to drinking water; the right to drinking water and sanitation as a human right and offer solutions to remedy the violations.

2. A BRIEF PROFILE OF THE STUDY AREA

Ogoni land is in Rivers State, Nigeria. It is a region covering some, 1,000 km² in the south-east of the Niger Delta basin. It has a population of about 832,000, according to the

³ El Hadji Guisse, *ibid*, p.5

⁴ See, Commission on Human Rights, Sub-Commission on the Promotion of Human Rights, fifty-fourth session, Agenda item, 4

⁵ Adopted by the United Nations General Assembly on 44 December 1986.

⁶ Held in Copenhagen in March 1995.

⁷ *Environmental Assessment of Ogoni land*, UNEP, 2011.

disputed 2006 National Census, consisting mainly of the Ogoni people. The region is divided administratively into four local government areas: Eleme, Gokana, Khan, and Tai. Traditionally, the area is formed by six kingdoms: Babbe, Eleme, Gokana, Ken-Khana, Nyo-Khana and Tai. Ogoni land has distinctive differences, including traditional institutional structures, languages and cultural features. Within Ogoni land, four main languages are spoken, which, though related are mutually exclusive. They are Eleme, Gokana, Khana and Tai. Linguistic experts⁸ classified Eleme, Gokana, and Khana as a distinct group within the Benue-Congo branch of African languages or, more specifically, as a branch in the New Benue-Congo family.

Ogoni land is characterized by typically deltaic features: uneven terrain, numerous creeks, shallow brackish water bodies and a variety of vegetation types including swamp forest. It has aquifers that are a crucial resource upon which the region's entire population depends for drinking water. This makes it imperative to protect these aquifers. The aquifers are very shallow, with the top-most groundwater levels occurring anywhere between close to the surface and a depth of 10 meters. To tap the aquifers, Ogoni communities typically construct open, hand-dug wells about 60cm in diameter and water is abstracted either manually or with pumps. In some areas affected by localized pollution of water closer to the surface, wells can be up to 50 metres deep, attracting the usage of immersible pumps to draw water. Water levels in these aquifers are highly seasonal.

Fresh groundwater can also be found in the shallow, sandy and unconfined aquifers of the coastal beach ridges, river bars and islands in the mangrove belt, including varying depths in confined aquifers. A large number of wells drilled in the coastal area produce brackish (salty) water which is not fit for drinking. In some areas, brackish groundwater can be found at depths greater than 200 metres below ground level. The Rivers State region is drained by the Bonny and new Calabar River systems and numerous associated creeks and streams. Ogoni land itself is bounded to the east by the Imo River and to the west by a series of creeks. The Imo river receives freshwater inflow during the rainy season but nonetheless, is influenced by tidal variations. The width and velocity of freshwater creeks increase downstream to form meandering or braided channels in the delta.

3. OIL EXPLOITATION ON WATER AND SANITATION IN OGONI LAND

The UNEP report⁹ concludes that pollution of soil by petroleum hydrocarbons in Ogoni land is extensive in land areas, sediments and swampland. Most of the contamination is from crude oil though contamination by refined product was found at three locations. Also, the assessment found that there is no continuous clay layer across Ogoni land, exposing the groundwater in Ogoni land, and even beyond to hydrocarbons spilled on the surface. In 49 cases, UNEP report observed hydrocarbons in soil at depths of at least 5m. This finding has major implications for the type of remediation required.

At two-thirds of the contaminated land sites close to oil industry facilities which were assessed in detail, the contamination exceeds Nigerian national standards, as set out in the Environmental Guidelines and Standards for the Petroleum Industries in Nigeria (EGASPIN). At 41 sites, the hydrocarbon pollution has reached the groundwater at levels in excess of the Nigerian Standard as per the EGASPIN legislation. The most serious case of groundwater contamination is at Nisisioken Ogale, in Eleme Local Government Area, (LGA) close to a Nigerian National Petroleum Company product pipeline where an 8 cm layer of refined oil was floating on the groundwater which serves the community wells.

⁸ *Ibid*, p.32

⁹ See, p.9

The said investigation found that the surface throughout the creeks contains hydrocarbons. Floating layers of oil vary from thick black oil to thin sheens. The highest reading of dissolved hydrocarbon in the water column, of 7,420ug/l, was detected at Ataba-Otokroma, bordering the Gokana and Andoni Local Government Areas. The Ogoni community is exposed to petroleum hydrocarbons in outdoor air and drinking water, sometimes at elevated concentrations. They are also exposed through dermal contacts from contaminated soil, sediments and surface water. It is taken that the average life expectancy in Nigeria is less than 50 years and so, it is a fair assumption that most members of the current Ogoni community have lived with chronic oil pollution throughout their lives.

More worrisome is the Ogoni community at Nisioken Ogala who are drinking water from wells that are contaminated with benzene, a known carcinogen, at levels over 900 times above the World Health Organization (WHO) guideline. The report states that this contamination demands urgent attention above all other remediation efforts. Hydrocarbon contamination was found in water taken from 28 wells in 10 communities adjacent to contaminated sites. At seven wells, the samples are at least 1,000 times higher than the Nigerian drinking water standard of 3ug/l. Local communities are aware of the pollution and its dangers but state they continue to use the water for drinking, bathing, washing and cooking as they have no alternatives.

The UNEP project team observed hundreds of industrial packing bags containing 1,000-1,500 m³ of waste, believed to be cuttings from oil drilling operations, dumped at a former sand mine in Oken Oyaa in Eleme L.G.A. The open disposal of such waste in an unlined pit demonstrates that the chain of custody in the region between the waste generator, transporter and disposal facility is not being observed. The study concludes that the environmental restoration of Ogoni land is possible but may take 25 to 30 years to achieve if sustained best practice is employed. It recommended the following emergency measures:

- Ensure that all drinking water wells where hydrocarbons were detected are marked and the people are informed of the dangers;
- Provide adequate sources of drinking water to those households whose drinking water supply is impacted;
- People in Nsisioken Ogale who have been consuming water with benzene over 900 times the WHO guideline are recorded on a medical registry and their health status assessed and followed up;
- Initiate a survey of all drinking water wells around those wells where hydrocarbons were observed and arrange measures (1-3) as appropriate based on the results;
- Post signs around all the sites identified as having contamination exceeding intervention values warning the community not to walk through or engage in any other activities at these sites;
- Post signs in areas where hydrocarbons were observed on surface water warning people not to fish, swim or bathe in these areas;
- Inform all families whose rainwater samples tested for hydrocarbons and advise them not to consume the water; and
- Mount a public awareness campaign to warn the individuals who are undertaking artisanal refining that such activities are damaging to their health.

4. THE LEGAL BASIS OF THE RIGHT TO DRINKING WATER AND SANITATION

By description, the right to drinking water is the right of every individual to have access to the amount of water required to meet his or her basic needs. The description covers access by

households to drinking water supplies and waste-water treatment services managed by public or private bodies.¹⁰ The right to drinking water is linked to all the other human rights, particularly economic, social and cultural rights, which cover everything that contributes to implementation of the right to life.

Excluding air, water is the only natural resource that the human species cannot do without. Essentially, it is absolutely necessary to human survival. By the provisions of the European Council on Environmental Law, water is above all a social good, that is, a resource that forms part of the common heritage of humanity. This should warrant a need for regulation and supervision by the public authorities, particularly in the most urgent case of Ogoni land. Water is seen as an economic good of great value, and it cannot be treated as a mere commodity like other consumer goods. The said Council stresses that access to drinking water must not be subject to market forces dominated by the profit motive.

4.1 International Legal Instruments

The right to drinking water is particularly reflected in two conventions in force: the Convention on the Elimination of All Forms of Discrimination against Women¹¹ and the Convention on the Rights of the Child.¹² In September 1990, at the World Summit for Children, in New York, the heads of State and Government adopted the World Declaration on the Survival, Protection and Development of Children in which they made a commitment to promote the provision of clean water for all children. Moreso, in accordance with the Action Plan adopted at the United Nations Water Conference held in Mar del Plata in 1977, all peoples have the right to have access to drinking water in quantities and of a quality equal to their basic needs. The said document was inspirational to paragraph 18.47 of Agenda 21, which cites the commonly agreed premise that “all peoples, whatever the stage of development and their social and economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs.”

Indeed, the first international instrument of positive law that takes a strong position in favour of access to clean water for all is the Protocol on Water and Health to the Convention on the Protection and Use of Trans-boundary Water Courses and International Lakes.¹³ Article 5 of the Protocol stipulates that “parties shall be guided in particular by the following principles and approaches: “equitable access to water, adequate in terms of both of quantity and quality, should be provided for all members of the population, especially those who suffer a disadvantage or social exclusion.” Article 4(2) provides that the “parties shall, in particular take all appropriate measures for the purpose of ensuring: (a) adequate supplies of wholesome drinking water...; and, (b)adequate sanitation...” The Additional Protocol to the American Convention on Human Rights (the Protocol of San Salvador)¹⁴ enacts in Article 11 (1): “Everyone shall have the right to live in a healthy environment and to have access to basic public services”.

¹⁰ It is erroneous to believe that the right to water only means providing everyone with the minimum amount of good-quality water that is adequate for life and health, i.e., to enable people to meet their essential needs such as drinking, food preparation and hygiene, and to permit small-scale family food production.

¹¹ General Assembly Resolution 34/180 of December 1979 (United Nations, *Treaty Series*, vol. 1249, p.13); entry into force: 3 September 1981: 185 ratifications (including Nigeria)

¹² General Assembly Resolution 44/25 of 20 November (United Nations, *Treaty Series*, vol. 1577, p.3); entry into force: 2 September 1990; 193 ratifications (including Nigeria)

¹³ Signed in London on 17 June 1999 under the auspices of the United Nations Commission Europe, and the WHO regional office for Europe.

¹⁴ Signed on 17 November 1988 and entered into force on 16 November 1999.

The Convention for the Protection of Human Rights and Fundamental Freedoms,¹⁵ did not explicitly provide for the right to drinking water. But following the Ministerial Conference held during the Second World Water Forum,¹⁶ it was stressed that access to water has been recognized by many countries, including those of the European Union. Virtually all nations now recognize that every human being has the right to access to drinking water. Ireland, for instance, recognizes this right by providing free drinking water for all.

From the foregoing, the access to safe drinking water must be treated as an imprescriptible right. The ideal position should be that it must not be subject to any restriction, in any place or at any time. This position is confirmed by the Global Water, Contract (1998) which lays emphasis on the individual right to water and on participation by the citizen. It calls for the free supply of the water needed to satisfy essential needs. In the same vein, the French Academic de l'Esau is of the strong view that while everyone should bear the cost of drinking water, solidarity between the rich and poor should ensure supplies for the most indigent. Apparently in pursuit of that the European regional delegations of secours catholique (French Catholic relief), which routinely encounter cases of unpaid water bills, expressed shock at the increasing difficulties enhanced by the poor in paying their bills. Their saving grace is the regular intervention financially by the regional delegations, mostly, at the prompting of social workers.

In Dublin in 1992, the International Conference on Water and the Environment declared that it was vital to recognize the basic right of all human beings to have access to clean water and sanitation at an affordable price. The European Council on Environmental Law urges all sectors of the economy to respect the right to water in other words, all the legal provisions concerning access to drinking water. This is geared towards all who are liable to impair the resources through depletion, diversion, irrigation or pollution.

4.2 Regional And National Legal Standards

Efforts have been made at regional levels to secure right to drinking water. Such efforts which compliment the international efforts in the same direction strengthen and confirm the individuals right to drinking water. Coming from the context of international heritage, the European Council on Environmental Council on Environmental Law maintains that water is a social good and forms part of the heritage of humankind. The Council argues that water should be subject to standardized regulation and supervision by public authorities with the intent of ensuring its equitable use in the overall spirit of solidarity. Several inter-governmental declarations in Europe have enacted the right to drinking water.¹⁷

After providing in Article 6(1) that “every individual shall have the right to enjoy the best attainable state of physical and mental health,” the African Charter on Human and Peoples’ Rights in Article 22(1) further provides that: “All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.” With specific reference to the environmental degradation in Ogoni land, the Charter in Article 24 provides that “all peoples shall have the right to a general satisfactory environment favorable to their development.” In the same vein, the Declaration of the 1972 United Nations Conference on the Human Environment, the Convention on Access to Information, Public Participation in Decision-Making and Access to

¹⁵ Signed in Rome on 4 November 1950.

¹⁶ Held in The Hague in March 2000.

¹⁷ These community laws are not taken as positive or binding, though, they are real legislation, their judicially enforceability is doubtful.

Justice in Environmental Matters,¹⁸ all recognize the human rights to sanitation and to drinking water.¹⁹ Further, the Ministerial Declaration of The Hague on Water Security in the 21st Century is directed towards guaranteeing that every person has access to enough safe water and at an affordable cost to ensure a healthy and productive life. Section 16(2)(d), Fundamental Objectives and Directive Principles of State Policy in Chapter II of the 1999 Constitution of Nigeria provides that:

Suitable and adequate shelter, suitable and adequate food, reasonable national minimum wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens.

The aforesaid Section 16(2) (d) is hinged upon Section 16(1) which provides that “the state shall, within the context of the ideals and objectives for which provisions are made in this Constitution”. The provisions are not rights properly so called, indeed, they are not justiciable as they are merely political benchmark, in the realm of fundamental objectives the state seeks to achieve. This is unlike the Preamble to the French Constitution of 1946 that reads: “[the nation] guarantees to all [...] health protection, material security.” In relation to drinking water, this translates to an undertaking that the state must promote the development of water production and distribution equipment in such a way as to ensure that all citizens, including the poorest, enjoy effective access. The French Water Act of 3 January 1992 confirms this position when it stipulates that the use of water belongs to everyone. This position the French made clear in Paris in March 1998 at the International Conference on Water and Sustainable Development. The French Prime Minister specifically said:

You have discarded the ancient and outdated belief that water is a gift of heaven and must therefore be free. The economic approach should not, however, be confused with a commercial one. Water is not a commodity like any other. It cannot be governed by the pure market interplay rule of supply and demand. A balance has to be found between the ability to pay of each category of users, the economic and social cost of their participation in collective action and the political choices every state has to make with regard to what it considers as its priority interests.

For France, at the Second World Water Forum, water cannot be managed in the way other commercial goods are taken, as in their perception; it is a public, collective and patrimonial good. In America, the states of Illinois, Pennsylvania, Massachusetts and Texas, in their constitutions recognize the peoples’ right to pure water. Article 7b of the 1999 Federal Constitution of the Swiss Confederation secures the rational use of water resources, their protection and the need to prevent water damage. The right of people to a healthy environment is recognized in the Constitutions of South Africa, Viet Nam, Peru, Indonesia, Ecuador, Columbia, as well as those of Belgium, Hungary, Korea, Netherlands, Poland, Portugal, Spain, Turkey, Brazil and Chile. By the provisions of Article 3 of the Decree of 20 December 1996 of the Flemish Community of Belgium, every subscriber is entitled to a minimum uninterrupted

¹⁸ Signed in Aarhus on 25 June, 1998. These recognition are basically in a non-binding form but should progress into a norm of international law.

¹⁹ Adopted on 4 December 1986

supply of electricity, gas and water for household use in order to live according to a specified standard.

5. THE RIGHT TO DRINKING WATER AND SANITATION AS A HUMAN RIGHT

International, regional and domestic instruments dealing on human rights express the right to drinking water and sanitation as an integral part of human rights. For instance, the European Council on Environmental Law is considering whether the right to water should be deemed a human right found that the “right of everyone to an adequate standard of living” stated in Article II of the International Covenant on economic Social and cultural Rights legally implies that everyone should be availed enough water to survive. Evidently, the right to water is indissociable from the right to sufficient food. Further, in adopting the Dublin Statement, the 1992 International Conference on Water and the Environment, stated that it is imperative to recognize the basic right of all human beings to clean water and sanitation at an affordable price. This legal position ensures that notwithstanding their status in life, all persons are entitled to drink clean water. It is in accordance with the provisions of Article 25(1) of the Universal Declaration of Human Rights (1948) that enacts: “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.”

At the domestic level, the recognition of a right to water, implies the existence of rights and obligations regarding the supply of drinking water and sanitation. The real legal purport is that without discrimination all persons are entitled to access for their basic needs to a sufficient quantity and quality of water supplied under the best possible hygienic conditions. The situation in Nigeria is desperate. Production and supply of water is practically an all-comers process. There is hardly any viable process that secures quality. This is a breach of the obligations states have undertaken by virtue of participation in making international regional treaties. States must ensure in all cases at all times that the quality and quantity is monitored, and where necessary, take appropriate action in checking the financing of works, the way shortages are managed, pricing specifications, the degree of sanitation and participation by users.

States must discharge positive obligations like supplying drinking water or draining and treating waste water. The obligation equally entails ensuring equal treatment for different users. The overall intendment of the right to water is in the implementation of the general principle that no one may be deprived of enough water to satisfy basic needs. Human rights are interrelated. The breach of one secures the breach of others. In this case, the breach of the right to water and sanitation automatically afflicts the following rights.

- (a) The right to self-determination: Water is perceived as part of the natural endowment of the people. In pursuit of realizing this right, a state must be able to exercise efficient administration, free of unjust interference, over all the natural resources and wealth under its jurisdiction. This in this instance, entails exhibiting the ability to provide its citizens with a sufficient supply of good-quality water under the best operating conditions, free of market constraints.
- (b) The right to a healthy environment: The case of Ogoni land is very instructive and glaring. It is a testimony that drinking water is undergoing consistent, sustained degradation and contamination through the activities of oil exploitation, the use of drinking water in large quantities by industry, pollution, by agriculture with its growing reliance on chemicals, particularly pesticides, and the dumping of toxic waste. These activities result to run-off water, like groundwater becoming contaminated and highly unsuitable for household use.

- (c) The right to peace: It cannot be disputed that water is the very source of life. Its use and application has no alternative, indeed, no substitute. This means that its absence is a great source of tension that may lead to the breach of peace. It is believed that, by the year 2025, 3 billion men, women and the most vulnerable children will be deprived of drinking water. This is a potential source of tension, a ticking time bomb. The states, by the provision of Article 7 of the Declaration on the Right to Development²⁰, have a duty to “promote the establishment, maintenance and strengthening of international peace and security.” “The Peoples of our planet have a sacred right to peace”, so declares Paragraph 1 of the Declaration on the Right of Peace.²¹ In securing the right to water and sanitation, conflicts and tension are avoided and peace is enthroned.
- (d) The right to development: The right to development is an amalgam of rights and the right to water and sanitation is at the centre of it. Provision of water in this respect requires a generous international response, involving cooperation in the technical, scientific and financial fields. When properly legally appreciated, the right to drinking water and sanitation have effect on individual rights. The rights affected include:

The Right To Education:

In practical terms, with respect to household needs requiring the adequate supply of water-for drinking, cooking, laundry, washing dishes and personal hygiene, this is the responsibility of women, mostly young women or even small girls. The process involves carrying pots or other vessels on their heads, and walking long distances, as much times as the needs of their families, to the nearest source of water. This is one major reason they do not go to school. By the provisions of Article 13(1) of the International Covenant on Economic, Social and Cultural Rights, “education shall be directed at the full development of the human personality and the sense of its dignity” and in paragraph 2, it enacts that “primary education shall be compulsory and available, free to all.”²² One of the objectives of the Declaration on Social Progress and Development as expressed in Article 10(e) is the “eradication of illiteracy and the assurance of the right to universal access to culture, to free compulsory education at the elementary level and to free education at all levels; the raising of the general level of life-long education .” The rights and objectives cannot be achieved in those communities and setting where there is lack of proper supply of drinking water.

Cultural Rights:

Even before the time of the Pharaohs, and particularly in Africa, water has been worshipped. This is because it nourishes the fertility of fields and living beings alike. They are many sheds of symbolic meanings in popular traditions associated with it, they include: source of life, a purifying substance, and a factor of regeneration. This explains why it is so cherished as its source, access and flow are an integral part of the daily manifestations of countless ancestral traditions. As provided for in Article 1 of the Declaration of the Principles of International Cultural Cooperation²³:

- Each culture has a dignity and value which must be respected and preserved.

²⁰ Adopted on 12, November 1984

²¹ The UNDP Human Development Report, 1996, reveals that school enrolment of girls at the primary level compared with boys amounts to 50% in the least developed countries, whereas in industrial countries the average is 97 per cent.

²² Adopted on 4 November 1966.

²³ Adopted on 11 December, 1969.

- Every people has the right and duty to develop its culture
- In their rich variety and diversity, and in reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind.

The Right to Life:

It is evident, that lack of access to drinking water and sanitation threatens all animal and plant life and risks the lives of millions of individuals. In its Human Development Report of 1994, the UNDP acknowledged that the ensuing concept of human security should embrace a broad spectrum of human security issues, including access for all to drinking water and sanitation. This position underscores the right to drinking water as an essential component of the right to life.

The Right to Health

Water is indispensable to life and to health, thus, establishing a close link between drinking water and health. There is the interrelatedness between the quality of water and food supply and sanitation and public health services. It is a fact of history and of course common knowledge that many epidemics have been directly linked to the quality of water. Increasingly, at an alarming rate, water-related diseases constitute one of the major health challenges the world over, with particular respect to developing countries. This is irrespective of the provision of Article 25 of the Universal Declaration of Human Rights that maintains that: “everyone has the right to a standard of living adequate for the health and well-being of himself and his family”. Further, the Declaration on Social Progress and development²⁴ set by its Article 10(d) the objective of attaining “the highest standards of health and the provision of health protection for the entire population, if possible free of charge”. The presence of pathogenic organisms, whether of bacteria, protozoans, viruses or worms, in drinking water are directly linked to many water-borne illnesses. These diseases may cause death, and others may have only mild pathological effects. Notwithstanding the existence of vaccines and other preventive measures, many persons still fall victims of illnesses linked to inadequate drinking water, hygiene and public health.

The Right to Housing:

Many international human rights instruments relate access to drinking water to the issue of housing. For instance, Paragraph 8 of the General Comment 4 of the Committee on Economic, Social and Cultural Rights²⁵, and Article 11 (i) of the International Covenant on Economic, Social and Cultural Rights identifies seven key aspects of this right. Paragraph 8(6), for instance provides that: “An adequate house must contain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.”

²⁴ Adopted on 1969

²⁵ Adopted on 1991

6. THE RIGHT TO WATER AND SANITATION IN NIGERIA

In December 2004, the European Union (EU) and the Federal Government of Nigeria agreed to support the implementation of the Water Supply and Sanitation Sector Reform Programme (WSSSRP). The over-all objective of this initiative was aimed at poverty eradication, sustainable development and achievement of the Millennium Development Goals (MDGs). It also had the specific objective of increasing access to safe, adequate and sustainable water and sanitation services in the six designated states of Anambra, Cross River, Jigawa, Kano, Osun and Yobe. The expected specific goals included:

- Improved water governance at the federal level, resulting in conditions for a sector support programme;
- Improved water governance at the state and local government levels in the designate states;
- Improved water services delivery in urban areas in the six states; and
- Delivery of water supply, sanitation and integrated manner in up to 1400 rural communities and up to 60 small towns in 25% of the Local Government Areas in the six states.

UNICEF implements the rural water supply and sanitation component through a contribution agreement in the six focal states. WSSSRP has a Federal Programme Implementation Unit (FPIU), a Programme Management Unit (PMU), consisting of four long-term experts-coordinator, assistant coordinator, water resources management expert and finance and contract expert-of Louis Berger SAS and Royal Haskoning, to assist the Federal Ministry of Water Resources (FMAWR). There are also State Programme Implementation Units (SPIUs) and a consortium headed by Mouchel Parkman in managing the projects in the six states. Additionally, there is a close mechanism established between WSSSRP and the Support to Reforming Institutions Programme.²⁶ This aims to support public finance institutions to improve budget processing and transparency, including standardized procurement procedures and budget instructions including improved control over public expenditures.

According to a writer, “the beauty of the policy documents and the laudable intentions of the programme designers are really made unintelligible by a mixture of indifference, incompetence and lack of commitment to publicizing the achievements of the programme.”²⁷ The report card of this programme which is selective and exclusive is simply fail. Excepting what has been described above, there is no other meaningful programme either on going or projected that is directed at securing the fulfillment of the right to water and sanitation, either in Ogoni land or elsewhere in Nigeria.

7. CONCLUSION

Water is priceless, indeed a gift of nature. The right of the Ogonis to water and sanitation is inalienable. The destruction or degradation of Ogoni land, though of immediate effect on the people should be of a greater concern to all. Ogoni land has been devastated and the Ogoni people denied, but humanity is the same everywhere. These denials and devastations constitute afflictions on the human family. To reverse this dangerous trend, and as a starting point, the UNEP report and recommendations should be carried out in its details. A concerted

²⁶ SRIP-9 ACP UNI 007

²⁷ Okey Ikechukwu, “Water Security and its Enemies, *Thisday*, July 28, 2010, p. 72

effort channeled towards saving Ogoni land is an effort directed towards saving the habitat, our global heritage.

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