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Human Rights and Corporate Responsibility in the Shift to a Green Economy: The Experience
of the Ogoni Peoples of Nigeria

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* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

Introduction

There is no doubt that the conventional economic development model has had negative impacts on the environment and had failed humanity through its contribution to the present triple crisis of pollution, biodiversity loss and climate change¹. Among these unprecedented global challenges, green economy is seen as the only way forward for humanity. Hence, the transition from conventional economic development models to a green economy has become necessary due to the consequential effect of the previous model emphasizing economic growth at the expense of nature and social equity, creating inequalities between peoples. For Countries like Nigeria, greening our economy had been seen as an important opportunity and a choice to change the conventional economic growth model towards a sustainable development model.

Despite several declarative statements, the transition to green economy in Nigeria that is manifested by the development of a number of green economy related policies and strategies such as the National Adaptation Strategy and Plan of Action on Climate Change for Nigeria (NAS-PACC), National Environmental, Economic and Development Study (NEEDS), National Climate Change Policy, National Renewable Energy Efficiency Policy (NREEP), Nigeria Renewable Energy Masterplan, Great Green Wall Initiative for Sahara, the Green Bonds, the Climate Change Act, the 2050 Long Term Low Emission Vision² etc., yet the journey had been quite slow, and the country is yet to record any important changes in that regard. This has left communities like the Indigenous Ogoni Peoples to suffer under the crushing weight of the climate crisis, pollution and poverty.

HUMAN RIGHTS AND CORPORATE RESPONSIBILITY IN THE SHIFT TO A GREEN ECONOMY

GREEN ECONOMY AND ITS PRINCIPLES

The Green Economy is a transformative change to the global and conventional economic order that will require ultimately a shift in government processes and priorities. This is necessary for the global push for sustainable development to be attained.

The United Nations Environment Programme (UNEP) had defined Green Economy as “one that results in improved human well-being and social equity, while significantly reducing environmental risks and ecological scarcities. In its simplest expression, a green economy can be

thought of as one which is low carbon, resource efficient and socially inclusive³” (UNEP 2011). Critically, the green economy concept is more than merely “greening” economic sectors; it is a means of achieving the sustainable development imperatives of⁴:

- Improving human well-being: securing better healthcare, education and job security;
- Increasing social equity: ending persistent poverty and ensuring social, economic and financial inclusion;
- Reducing environmental risks: addressing climate change, ocean acidification, the release of hazardous chemicals and pollutants, and excessive or mismanaged waste; and
- Reducing ecological scarcities: securing access to freshwater, natural resources and improving soil fertility.

PRINCIPLES OF GREEN ECONOMY

According to Partners for Inclusive Green Economy, a green economy is underpinned by five core principles namely⁵:

1. The Well-being Principle: This principle rests on the fact that a green economy enables all people to create and enjoy prosperity
2. The Justice Principle: This principle is anchored on the fact that green economy promotes equity within and between generations
3. The Planetary Boundary Principle: This principle emphasizes that green economy safeguards, restores and invests in nature
4. The Efficiency and Sufficiency Principle: This principle states that green economy is geared to support sustainable consumption and production. It reinforces that green economy is low-carbon, resource conserving, diverse and circular
5. The Good Governance Principle: This principle reinforces that green economy is guided by integrated, accountable and resilient institutions

Main sectors of a Green Economy

The six main sectors of a Green Economy are:

1. Renewable energy
2. Green buildings
3. Clean transportation
4. Water management
5. Waste management

6. Land management.

Under this presentation, we shall be dealing with this issue, *Human Rights and Corporate Responsibility in the Shift to a Green Economy* from two perspectives within the green economy sectors: Land/Water Management and (2) The Renewable Energy Intervention

GREEN ECONOMY AND RESTORING OGONILAND

Background

The intervention in Ogoni falls within the context of land degradation and restoration which fits within the land/water management sector of green economy.

The Ogoni people are distinct Indigenous Peoples occupying an area of 404 square miles (about 100,000 square kilometers) on the southeastern fringe of the Niger Delta River in what is geographically referred today as the South-South of Nigeria. The Ogoni People number around a million persons today based on projections from the last census of 2006 and has a population density of 1250, one of the very highest in any rural setting of the world and compares favourably with the Nigeria national average of 242.27⁶.

As Indigenous Peoples, the Ogoni had a well-established social system that placed great value on the environment and its natural capital before the advent of British colonial rule. Living on fertile alluvial soil and blessed with a necklace of rivers and creeks, the Ogoni Peoples seized the opportunity of having these resources to become great fisher folks and farmers, producing not only for their own subsistence but also for their neighbours in the Niger Delta and was appropriately referred to as the 'Food basket of the Niger Delta'. They created a system of agriculture; their traditional means of livelihood that ensured the sustainable management and sustainable exploitation of natural resources. Socio-culturally, the Ogoni Peoples live in closely knit communities and are more endogenous.

The Ogoni Peoples have a tradition and customs that are deeply rooted in nature and this helped them to protect and preserve the environment for generations. The land on which they live and the

rivers which surround them are viewed by them not just as natural resources for exploitation but with deep spiritual significance. “Land is viewed as the abode of our ancestors from where they oversee our lives, it is also a god and we revere it as such⁷.

This respect and reverence for land also means that forests are not merely a collection of trees and the abode of animals but also, and more intrinsically, a sacred possession. Therefore, trees in the forests cannot be cut indiscriminately without regard to their sacrosanctity and their influence on the wellbeing of the entire community. There are some animals that you cannot kill because they are said to be totems. That is, they are supposed to be animations of the spirit of somebody and if you kill them, then something disastrous will happen.

Similarly, rivers and streams apart from their being the source of water for life are also intricately bound up with the life of the community and are not to be desecrated through oil pollution etc. Thus, our people believe that there is a dynamic interaction that exists between men and women, animal, plants and so on.

These were the natural rights that our people understood over the years and there is a belief in the system that every person must take action to protect those natural rights. Rights to lands, rights to nature etc.

Grave consequences follow any erring human conduct or action desecrating the environment and failure by the custodian community to take action to protect it from desecration attracts the wrath of the gods, which visits the community with disaster. The pre-colonial social system therefore ensured sustainable exploitation of natural resource and protection of biodiversity. Most of these practices still exist to this day and this explains why the Ogoni Peoples⁸ are unanimous when it comes to taking decisions that borders on their environment. To them, their lives are intrinsically bound with the survival of the environment. This also explains why the Movement for the Survival of the Ogoni People (MOSOP) recorded a phenomenal success in mobilizing the Ogoni Peoples to stand up against the denigration of their environment in the early 1990s.

Oil Discovery, Oil Pollution and Ogoni

The discovery of oil in K. Dere, Ogoniland in early 1957⁹ signaled the biggest disruption in the lives of Ogoni Peoples as Ogoni and other parts of the Niger Delta became a hotbed for the global competition for fossil fuel development and hydrocarbon exploitation. Subsequently, Shell Petroleum Development Company made more discoveries in other Ogoni communities including Ebubu, Yorla, Bodo West and Korokoro. Shell is the sole player in the oil extractive industry in Ogoni having secured the Oil Mining License (OML) covering the entire Ogoniland.

At last count, Ogoni has five major oil fields with 110 oil wells, hooked up to five flow stations at Bomu, Korokoro, Yorla, Bodo West and Ebubu by a necklace of interconnecting pipelines which crisscrossed Ogoni villages. Gas had been flared for 24 hours a day for 40 years near human habitation in nineteen oil locations in a 404 square mile area with population density of 1250 per square mile.

Unfortunately, *the history of oil exploitation in Ogoni is like the history of oil pollution, biodiversity loss and warming* as the commencement of oil exploration and exploitation was followed almost immediately with the three major causes of oil pollution namely, the impact of the seismic survey, gas flaring and oil spills.

This situation had caused massive land degradation in Ogoniland, impacted on our water system, destroyed the local economic livelihood support system of fishing, farming, food gathering, hunting and wine tapping.

OGONI, HYPREP AND GREEN ECONOMY INITIATIVE

In the early 90s, the Ogoni Peoples launched a titanic struggle against Shell oil, the dominant oil player in the Ogoni area and the Federal Government of Nigeria. This struggle led to the total militarization of the Ogoni for five years within which period, Ogoni Peoples lost about five thousand people and had 14 of its communities destroyed by the marauding military. Nevertheless, the Ogoni Peoples embarked on a global campaign which informed the then United Nations Human Rights Commission to pass a resolution¹⁰ calling on the Nigerian government in collaboration with Shell and MOSOP to set up an independent agency to carry out the environmental audit of Ogoniland. In October 2006, the Nigeria Government invited the UNEP

to carry out a multi-year study of the Ogoni environment. The UNEP completed its study and submitted the report to the President and Government of Nigeria on the 4th of August 2011.

On the 2nd of June 2016, the Federal Government launched¹¹ the Remediation and Restoration of Degraded Ecosystem of Ogoniland and set up an agency, the Hydrocarbon Pollution Remediation Project (HYPREP) with the mandate to clean up and restore degraded ecosystems of Ogoniland.

The HYPREP is a multi-stakeholder mechanism, a product of negotiation between the Ogoni community, the Federal Government and Shell Oil with the mandate to clean, restore ecosystems and livelihoods in Ogoniland. Its governance framework includes representatives drawn from the Federal Government, Shell Oil and the Ogoni Community including civil society.

HYPREP AND THE RE-GREENING OF OGONI COASTAL COMMUNITIES

The HYPREP is carrying out one of the largest clean-up and restoration programme in the world. It is currently involved in building a green and circular economy around the restoration of destroyed mangrove forests in the coastal communities of Ogoni where oil extraction had destroyed the mangrove forests.

Under this scheme, HYPREP is carrying out the restoration of mangroves covering an area of about 1,416 hectares in Ogoniland. This is creating green jobs for thousands of community members who are involved with the maintaining of juvenile mangrove nurseries until they are transferred to where they are planted. Besides, the community members are directly involved with the management of the process.

CARBON CREDITS AND THE HYPREP MANGROVE RESTORATION PROJECT

The HYPREP is in discussion with the communities where mangroves are being restored on developing a clear framework for earning carbon credits for the restoration of the degraded mangrove forests for the overall benefits of the communities.

RENEWABLE ENERGY, TRANSITION METALS AND INDIGENOUS PEOPLES

At the heart of the green economy discourse is the issue of human well-being and dignity of the human person which are essentially also at the core of human rights.

As promising as the Green Economy transition is, it has also been recognized that its implementation *particularly within the renewable energy sector* without robust human rights protection mechanisms would end up triggering the same human rights abuses that communities particularly Indigenous Peoples¹² had faced in the conventional economic model of unrestrained economic growth.

As stated earlier, the green economy pathway is projected to address the triple crisis that is presently threatening humanity – The Climate Crisis, Biodiversity loss, and Pollution. The move towards a fossil-fuel free energy future has led to the massive investment of financing solutions in the Renewable Energy Sector of the Green Economy and acquisition of lands for such investments like wind farms and hydropower.

However, this movement to renewable energy is requiring the use of transition metals such as lithium, cobalt, copper, and nickel which are essential for technologies such as solar panels, wind turbines and electric vehicles. The International Energy Agency (IEA)¹³ projects that meeting Paris Agreement climate goals will mean a quadrupling by 2040 of demand for such so-called “transition minerals.”

AFRICA - THE EXPLOITATION OF TRANSITION METALS AND HUMAN RIGHTS

Unfortunately, most of these transition minerals are found in Indigenous Peoples lands. More worrisome is the fact that UNEP had reported¹⁴ that over 30% of these rare minerals in the world are in Africa with its weak institutional, governance and human rights frameworks.

Africa is so blessed with a variety of the transition mineral such as cobalt, copper, lithium, copper, bauxite, chromium etc. that greening Africa and contributing to climate mitigation would not have been difficult. It is reported that the Democratic Republic of Congo alone is estimated to own 60% of the world’s cobalt reserves¹⁵. Similarly, Madagascar and Mozambique have significant graphite deposits, Zambia is ranked the world seventh largest copper producer whilst Zimbabwe is the sixth producer of Lithium worldwide and number one in Africa. Countries such as Namibia, Ghana including Nigeria which recently launched its first official exploitation of Lithium. In one of his assertions recently, the President of Zimbabwe, Mr. Emmerson Mnangagwa had stated that *lithium is the mineral of the present and the future*¹⁶.

While indeed, these minerals paint a bright and economically secured future, members of most communities where these minerals are being mined have raised concerns about serious human rights violations including forced eviction, torture, arrests, and loss of livelihoods. The very weak governance structures, institutional failures, outmoded legal frameworks and extreme poor human rights records of African countries is actually a cause of grave concern in the movement to renewable energy underpinned by the exploitation of transition metals.

In Zimbabwe, where lithium mining had been occurring for a while with about seven lithium mining projects, communities around the mine sites alleged that no Free, Prior and Informed Consent was sought before the mining operations began and Environmental Impact Assessments were barely carried out. According to the 2023 Global Witness Report¹⁷, the same applies to the lithium mining sites in Uis, Namibia where the government and the Chinese firm, Xinfeng Investments have been accused by communities not to have been consulted nor engaged in the process or carried out Environmental Impact Assessments.

In Ghana, the government had given a license to an Australian company, Barari DV Ghana Limited, a subsidiary of the Australian company, Atlantic Lithium Limited to mine lithium under what is referred to as the Ewoyaa Lithium Project.

According to Dr. Samuel Dotse¹⁸, the Chief Executive Officer of the Accra-based organization, HATOF Foundation, he said that from a broad policy standpoint, he thinks that the discovery of lithium in commercial quantities presents a great opportunity for Ghana to restructure its contract relationships for the development of her mineral resources, lithium and all other critical minerals must be dealt with differently from the way existing traditional minerals such as gold, manganese etc have been managed. However, the story has not been encouraging as community input in the process is absent, human rights due diligence guarantees are absent and beneficiation to communities absent.

In Nasarawa State, Nigeria, the Federal Government launched the \$250m Ganfeng Lithium Industry Limited in Endo community of Udege Development Area of the state on the 12th of October 2023. Though still in its early stage, investigations indicated that the communities had

not been involved in any of the negotiations leading to the licensing of the companies to explore for Lithium in Nasarawa State. There had not been any EIA carried out and no human rights safeguards put in place.

INDIGENOUS PEOPLES, CSR AND HUMAN RIGHTS

Moving forward, there is the absolute need for the integration of the rights of Indigenous Peoples in every green economy initiative to safeguard the rights of Indigenous Peoples in territories where transition minerals are found and exploited and green projects to be implemented by businesses.

The green economy will require a new different approach to Corporate Social Responsibility (CSR). For CSR to make an impact and be of benefit to Indigenous Peoples in a green economy, the traditional act of CSR as a voluntary concept of businesses with conscience, corporate citizenship or social stewardship where their actions are largely seen from the prism of philanthropy has to evolve to a more progressive concept seen as an integrated part of business responsibility towards society¹⁹. This approach can be engendered by the UN Guiding Principles on Business and Human Rights on the Corporate Social Responsibility to Respect Human Rights which includes the rights of Indigenous Peoples as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and other instruments. This new thinking of CSR means that businesses need to welcome the responsibility for the company's actions and engender a positive impact through its activities on communities, consumers, environment, communities, stakeholders, and all other members of the public sphere²⁰

RECOMMENDATIONS

To advance human rights and CSR in a green economy to safeguard the rights of Indigenous Peoples, the following recommendations are put forward:

1. States should ensure the integration of the United Nations Declaration of the Rights of Indigenous Peoples which provides the normative framework and legal mechanism for the recognition and protection of the rights of Indigenous Peoples in the green economy and energy transition processes and pathways.

2. Investment companies should ensure the integration of Free, Prior and Informed Consent throughout the project cycle which includes planning, development and implementation.
3. **Access to Information, Public Participation and Co-ownership:** Access to information and effective participation is a key procedural right of international human rights law. A multi-stakeholder mechanism involving Indigenous Peoples, investment companies and government must be put in place to ensure Indigenous Peoples participation and sense of co-ownership in the planning and decision-making process, and value chain of the investment.

4. Benefit Sharing Arrangements

The State and businesses in cooperation with communities should work to establish a clear, equitable, just, and fair benefit sharing arrangements. Development discourse no longer exists just between States and investment companies. Communities have become a strong pillar of engagement and must share in the benefits arising from investment in the green economy. Benefit-sharing could contribute to ensuring that the returns generated by the responses to climate actions such as renewable energy interventions are allocated in a fair and equitable manner²¹. It could be used to address justice and equity issues in the green economy regime particularly on the low-carbon initiatives driving renewable energy investments.

As a departure from the past, there is the strong need that the green economy encourages a people-centered and place-based benefit sharing arrangement that ensures that Indigenous Peoples benefit from the investment in their territories. This arrangement should include the active involvement of Indigenous Peoples as right holders.

5. Mandatory Human and Environmental Rights Due-Diligence

Mandatory Human rights and environmental due diligence laws are crucial to fight irresponsible investment²² activities in the green economy. This mandatory human and environment due diligence must essentially use UNDRIP and FPIC as a basis for its due diligence in Indigenous Peoples' territories.

6. The UNGP and Establishment of Accountability and Grievance Mechanism

Businesses should establish accountability and grievance mechanisms in areas of their operations. Principle 31 of the United Nations Guiding Principles on Business and Human Rights²³ encourages the establishment of Non-Judicial Grievance Mechanisms which should be geared towards addressing grievances relating to investments. *In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should among others be legitimate, accessible, equitable in its operations, rights compatible etc.*

7. Green finance institutions²⁴ must, as a necessity, establish safeguards for the protection of the rights of Indigenous Peoples.
8. **Direct funding to Indigenous Peoples²⁵.** There is the urgent need to consider providing direct funding to Indigenous Peoples to enable them carry out their self-determined green economy vision such as in renewable energy, agriculture and water. This fits into guaranteeing their rights to self-determination.
9. States should evolve legislation that make CSR mandatory for all green projects/businesses.
10. A multi-stakeholder mechanism should be created to co-ordinate CSR programmes and projects by green businesses. The Global Memorandum of Understanding (GMoU) model could be applied.
11. States must ensure that green businesses integrate human rights standards particularly UNDRIP into their CSR Business model.
12. The African Union (AU) should undertake a review of the African Mining Vision to include human rights safeguards and Indigenous Peoples.

KNOWLEDGE AND LESSONS TRANSFER

The impetus for the Green Economy model is to improve well-being and social equity. This will involve targeted investment in human and social capital. This cannot be achieved without engagement in the focused sharing of lessons learnt and best practice examples along the line within groups, regions and around the world and knowledge transfer about new innovations in the green economy sector.

The shift from the conventional economy model to a green economy requires a fundamental shift in the way we think and have been operating. To fulfil this, several actions are needed, particularly in sharing lessons learnt from one intervention to the other including best practices. Other actions include:

1. Awareness creation and information sharing

States and businesses should put in place a deliberate process of creating awareness and sharing information about successful lessons learnt on investments and projects on the green economy system that best fits Indigenous Peoples world view.

2. Education and Training

States and investment companies should invest in quality education and training for Indigenous Peoples particularly on green economy, climate change education, human rights etc. Quality education provides people, in particular Indigenous women and youth, with the skills, competencies and knowledge needed to prepare for green jobs and to change unsustainable consumption patterns.

3. Capacity /Skills Development Enhancement

There would be need for Indigenous youth capacities and skills to be enhanced on focused skills and capacities to enable them to participate in green innovations.

4. Exchange Programmes

One way of accelerating the sharing of lessons learnt is to promote the exchange visits/ programmes among peoples of different communities/ regions. Indigenous Peoples should undertake to carry out this point with the support of donors where necessary,

CONCLUSION

As humanity grapples with the huge task of moving from a carbon intensive economic model to a green economy model, we are being challenged to embark on a fundamental shift in thinking and in ways of doing things and in living. This fundamental shift in thinking is required of every human person and business entities particularly in the way we deal with human rights issues and corporate concerns. At the heart of green economy is the issue of human well-being and social equity whereas at the heart of human rights is the issue of human dignity. Without well-being there cannot be dignity and without

dignity, there cannot be well-being. This requires that every green economy intervention observe human rights.

Endnotes

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