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Right to a clean and healthy environment in South Sudan: A Reality or a rhetoric?

By: *Bona Bol Madut Ayii**

Abstract

Although the right to a clean and healthy environment is a universally recognized fundamental human right, it is hardly prioritized. Developing countries such as South Sudan are often caught in difficult situations which demand the prioritizing of certain activities at the exclusion of others. In this respect, the country has largely invested in the oil industry compared to sustainable means of generating revenue.

This paper interrogates the right to a clean and healthy environment vis a vis the need for socio-economic development in light of the existing laws and regulations. Particularly concerning South Sudan, a country which has historically grappled with political unrest and currently faces the looming danger of environmental degradation brought about by unregulated oil exploration activities. Reported cases of environmental pollution, health complications, and rampant death of people and animals are risks associated with the economic activity. On the face of these emerging issues there is a clear trend in the lack of accountability on the part of the oil exploration companies and the government.

The Paper argues for the place of the human right to a clean and healthy environment. Its features, sound understanding and implementation. It outlines the various stakeholders involved, the effects of oil exploration on the environment and the suitable recommendations to mitigate the adverse

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effects associated with environmental degradation.

Key words: the right to a clean and healthy environment, pollution, environmental degradation, public participation, the right to information, right to justice, laws and regulations.

Introduction

Every living organism derives life and sustenance from the environment.¹ It is from this realization that the world has taken the conservation trajectory to minimize the harshness of human activities on the environment. For survival and sustenance, humans must indulge in socio-economic activities.² However, certain aspects of these activities endanger the environment as well as our well-being. Nature in itself is interdependent.³ The cycle of life demands that for one to survive, he/she must preserve their source of sustenance, whether it is food, water, shelter, minerals et cetera.⁴

Over time, humans have prioritized their needs at the expense of certain things such as the environment.⁵ Among these activities is oil exploration.⁶ The economic activity has been introduced and expanded in several Countries. This is mainly because of its lucrative nature as oil is needed in most of our daily activities, from fueling our vehicles to running industries. As such it has earned the name “black gold”.⁷

¹ Explained: How organisms interact with each other and their environment.

² *Recover better: Economic and Social challenges and opportunities.*

³ Philippe Lzaro, *Plant with Purpose; Causes Effects and Solutions to Environmental Degradation.*

⁴ Christian Erni; *Shifting Cultivation, Livelihood and Food Security.*

⁵ *International Institute on Sustainable Development.*

⁶ Ibid

⁷ Aahil R. Oil: The World’s Black Gold?

Due to this, oil companies have expanded their activities and quickly taken over the market in their respective territories.⁸ The implication of this has been environmental degradation. These activities have had far-reaching effects on the land, the people and the climate as well.⁹ The people who once enjoyed clean air, water, healthy food and adequate sanitation are now faced with an uncertain future due to the health complications arising from oil exploration.¹⁰

These grievances have led to Environmental conservation talks that have borne no fruits.¹¹ The laws and regulations that were to offer a safeguard have proven to be nothing but smoke and mirrors. An illusion intended to blindly lead the citizens on while the companies line their pockets. Hence, the question, **“Is the right to a clean environment a reality or a rhetoric”?**

The right to a clean and healthy environment is a human right.¹² The fundamental aspect of human rights is that they are inalienable, indivisible, interdependent, universal, and inherent.¹³ Given these characteristics, it is expected that none of the rights encompassed under this umbrella can exist without the other.¹⁴ An example of such a human right is the right to a clean and healthy environment.¹⁵

⁸ U.S. Energy Information Administration, “Crude Oils Have Different Quality Characteristics.”

⁹ Human Impact on the Environment.

¹⁰ World Health Organization: Sanitization.

¹¹ Report of the World Commission on Environment and Development: Our Common Future.

¹² “What is the Right to a Healthy Environment?” United Nations Environment Programme (UNEP)

¹³ *What is the Right to a Healthy Environment?* United Nations Environment Programme (UNEP)

¹⁴ UNFPA: Human Rights Principles

¹⁵ Ibid

The right to a clean and healthy environment is universally recognized.¹⁶ Despite being in the Sustainable Development Goals, it was only until July, 2022 that the United Nations General Assembly became cognizant of its critical impact on society and acknowledged it as a human right.¹⁷ Regardless, the organization is making strides in sensitizing people through its member states and ensuring that the right is protected.¹⁸

What is the right to a clean and healthy environment?

There is a consensus that there is no universally accepted definition of the right to a clean and healthy environment. However, at its root, the right is said to comprise some substantive and procedural features.

The substantive features include access to; healthy food, safe water, clean air, sanitation, and healthy and sustainable ecosystems.¹⁹ On the other hand, the procedural aspect touches on access to justice, information, and public participation.²⁰

South Sudan being a member state of the United Nations is expected to fully realise this right and ensure its citizens and their environs are not adversely affected by drastic environmental change.²¹ Despite

¹⁶ Ibid

¹⁷ *What is the Right to a Healthy Environment?* United Nations Environment Programme (UNEP)

¹⁸ Ibid

¹⁹ Ibid

²⁰ Wilsom M. "Access to Justice for Persons with Disabilities in Kenya From Principles to Practice"

²¹ "South Sudan Adapts to Climate Change By Restoring Its Ecosystems" United Nations Environment Programme (UNEP)

this, the country has been afflicted by chronic environmental degradation.²² This could be attributed to various factors such as climate change, drought, oil pollution and deforestation among other things.²³ However, oil pollution in South Sudan stands out due to the extensive oil extraction in the country.²⁴

Over the years South Sudan has derived most of its revenue from oil exploration which makes up approximately 40% of its GDP.²⁵ The government gains from the revenue, and the contracted companies from the oil coupled with cheap labour from the locals.²⁶ At a glance, these concessions seem to benefit every other party but the citizens.²⁷ The reality is that the citizens got the shorter end of the stick, or none at all. While the government “grows” the economy, it has turned a blind eye to the problems caused by oil exploration.²⁸ The expected benefits from these concessions have turned into the citizens’ worst nightmares.²⁹ The land they once derived their livelihood from, has gradually turned into their graves.

Complaints of pollution have been raised by those who live near oil fields. These complaints range from health complications to adverse environmental impacts caused by oil extraction. Locals have been faced with peculiar cases of child deformities, deaths of animals and

²² Wen H. Hooi Hooi L. “Environmental degradation is an alarming issue in the planet.”

²³ Ibid

²⁴ Sam M. “South Sudan ignores reports on oil pollution and birth defects”

²⁵ Bortoluzzi G. “South Sudan Country Profile – Economy”

²⁶ Ibid

²⁷ Ibid

²⁸ Tim Jackson “Prosperity without growth? The transition to a sustainable economy”

²⁹ Ibid

plants, and infertility among other things.³⁰ Taking into account how the activities of the companies have impacted their surroundings, a correlation can be drawn between oil pollution and the evident environmental degradation.³¹

Research has shown that most upstream oil extraction takes place near human settlements.³² As a result, these activities affect or influence people's health and livelihoods.³³ It has been determined that exposure to harmful chemicals released during the oil extraction process is the leading cause of liver damage, child deformities, stillbirths, infertility, cancer and other related health complications.³⁴ Mediums by which people come into contact with these harmful chemicals include: -

Water

Water is life, and nothing can live off contaminated water.³⁵ The same principle applies to the land, if it is misused it will affect every other thing dependent on it.³⁶ Since surface and groundwater are beneath the ground, it is only imperative that their quality is influenced by land use.³⁷

³⁰ *Wailing of the people of South Sudan from oil contamination (overview of oil production and effects on people health)*, Peter Bol Gai Kuany, Prof, Xuefei Zhou, Dr. Ahmed A. Abdelhafez, Islam A. Abdelhafeez

³¹ *Impact of upstream oil extraction and environmental public health: a review of the evidence*, Jill E. Johnston, Esther Limb, Hannah Roha

³² *Ibid*

³³ *Ibid*

³⁴ *Ibid*

³⁵ "Clean water: what happens to humans without it?"

³⁶ *Ibid*

³⁷ *Impact of upstream oil extraction and environmental public health: a review of the evidence*, Jill E. Johnston, Esther Limb, Hannah Roha

Research has shown that during oil drilling activities, wastewater is released into water sources either through leakage, spillage, dumping or other means which leads to changes in the chemical composition of water.³⁸

Air pollution

Oil drills usually release emissions into the air.³⁹ These emissions contain certain chemicals such as sulphuric acid which are carcinogenic and sometimes linked to reproductive health complications.⁴⁰

Soil pollution

This usually takes place during transportation when the oil or the fluids essential in the drilling process are spilt.⁴¹ If the spillage is not effectively contained, it will lead to soil pollution and polluted soil will cause health complications for those who depend on their crops and animals for livelihood.⁴² Sometimes the damage can be caused by inhaling contaminated soil particles.⁴³

Radioactive materials

It has been determined that oil drilling activities emit radioactive materials and those exposed to such are more likely to develop cancer

³⁸ Lindsey Konkel "Salting the Earth: The Environmental Impact of Oil and Gas Wastewater Spills"

³⁹ "Drilling Pollution and Solutions"

⁴⁰ *Impact of upstream oil extraction and environmental public health: a review of the evidence*, Jill E. Johnston, Esther Limb, Hannah Roha

⁴¹ *Ibid*

⁴² "Soil pollution a risk to our health and food security" United Nations Environment Programme (UNEP)

⁴³ *Impact of upstream oil extraction and environmental public health: a review of the evidence*, Jill E. Johnston, Esther Limb, Hannah Roha

compared to those who are not.⁴⁴ Substances such as radium can be inhaled from the surface by livestock as they graze.⁴⁵ Humans can also come into contact with the harmful chemical by consuming food grown in contaminated soil.⁴⁶

Measures taken by South Sudan

South Sudan has laws such as the **Petroleum Act, 2012** to prevent or in certain situations control the extent of pollution.⁴⁷ The Act mandates the companies to maintain a clean and healthy environment. They are tasked with ensuring that their waste is contained and properly disposed of. Therefore, the companies owe a duty of care to the neighbouring communities.⁴⁸ However, due to a lack of strict implementation, these laws are ineffective.⁴⁹

A clear example of the laxity of these laws was seen in Rubkona, Upper Nile where there was an oil spill that covered about four (4) square kilometres and no action was taken by the company until two (2) days later when it got notified by the locals.⁵⁰ Another example is the inaction of the government towards the health and environmental impact despite the public outcry from affected areas such as the

⁴⁴ "Radioactive Waste Material from Oil and Gas Drilling" United States Environmental Protection Agency.

⁴⁵ "Toxicological Profile for Radium" Agency for Toxic Substances and Disease Registry U.S. Public Health Service.

⁴⁶ *Impact of upstream oil extraction and environmental public health: a review of the evidence*, Jill E. Johnston, Esther Limb, Hannah Roha

⁴⁷ Ibid

⁴⁸ "Kenya Environmental Sanitation and Hygiene Policy" Ministry of Health Republic of Kenya.

⁴⁹ David B. "The Implementation Gap: What Causes Laws to Succeed or Fail?"

⁵⁰ *South Sudan pledges to clean up oil pollution after locals' protests*, East African: The Nation Media Group.

Ruweng Administrative Area.⁵¹

In view of the foregoing, the silence of the government has emboldened the activities of these companies. The companies are not transparent in their waste and environmental regulation, and neither do they take accountability for the harm they have done to the environment or the neighbouring people.⁵²

Due to this lack of oversight and accountability, the people of South Sudan are widely exposed to hazardous chemicals, especially during flooding.⁵³

One may infer that the government of South Sudan never prioritised the environment or its people when it entered into these agreements.

Recommendations

South Sudan is a member state of the United Nations which champions the right to a clean and healthy environment.⁵⁴ Furthermore, it has its own internal laws and regulations to facilitate the implementation and oversight of this right.

The environmental degradation in the country can mainly be attributed to the activities of the oil companies.⁵⁵ However, the government too owes a duty of care to its people by ensuring that

⁵¹ *South Sudan pledges to clean up oil pollution after locals protests*, East African: The Nation Media Group

⁵² Ataur R. Stuart M. "Corporate environmental responsibility and accountability: What chance in vulnerable Bangladesh?"

⁵³ "Toxic Floods? Climate, Natural Hazards and Risks to South Sudan's Oil Infrastructure."

⁵⁴ *Ibid*

⁵⁵ *Ibid*

they live in a habitable environment.

The right to a clean and healthy environment is a human right. Therefore, realisation of other rights also stems from it. A clear indication of stifling of other rights is evident from the impact of the unregulated oil drilling. These people's right to health, right to life, right to education has been limited because of the lack of regulation in the oil drilling sector. For these citizens to fully realise their rights it is upon their government to firmly regulate the oil sector.

The following are recommendations that may positively impact the oil drilling sector: -⁵⁶

1. Implementation of laws. South Sudan enacted the Petroleum Act, 2012 and the National Environment Act, 2001. These legislations place a duty on the oil drilling companies to take measures to ensure that they have rigorous safety measures.
2. Relocation of the affected people. As discussed, oil drilling companies are located where there are human settlements which eventually exposes the people to hazardous chemicals. The government should come up with a policy that addresses the need to relocate these people to safer areas when it is discovered that their health and livelihood is compromised by the oil drilling activities. The government could also relocate the people to be likely affected by these activities before granting permission to these companies.

⁵⁶ *What is the Right to a Healthy Environment?* United Nations Environment Programme (UNEP)

3. The government should ensure that the companies fence off their oil plants. This is to keep off animals from the site and prevent contact with hazardous chemicals.
4. Public participation: Since it is the people who are ultimately affected by the oil drilling activities, they should be actively involved in the decision-making process. Their views and concerns should be taken into consideration and reflected in the agreements between the government and the companies.
5. The government should carry out an extensive environmental impact assessment on the affected areas. Various regions in South Sudan have reported cases of health complications, mysterious deaths of animals and other adverse effects on the environment. Such issues should not go unresolved. It is the duty of the government to protect the interests of its people.
6. The government to do away with the existing oversight authorities by replacing them with robust institutions.
7. Due to the negative impact the oil drilling processes have had on the environment, it is only prudent for the government to employ improvements in the affected areas through rehabilitation.
8. An urgent need to establish the Environmental Management Authority (EMA) as provided by the Revitalised Agreement on Resolution of Conflict in South Sudan to be mandated as a Regulatory Body.
9. Deploying qualified cadres into regulatory institutions.

10. Parliament to pass the Environmental Management Act which has been a Bill since 2012.
11. Financing the regulatory institutions.
12. To conduct an environmental audit.

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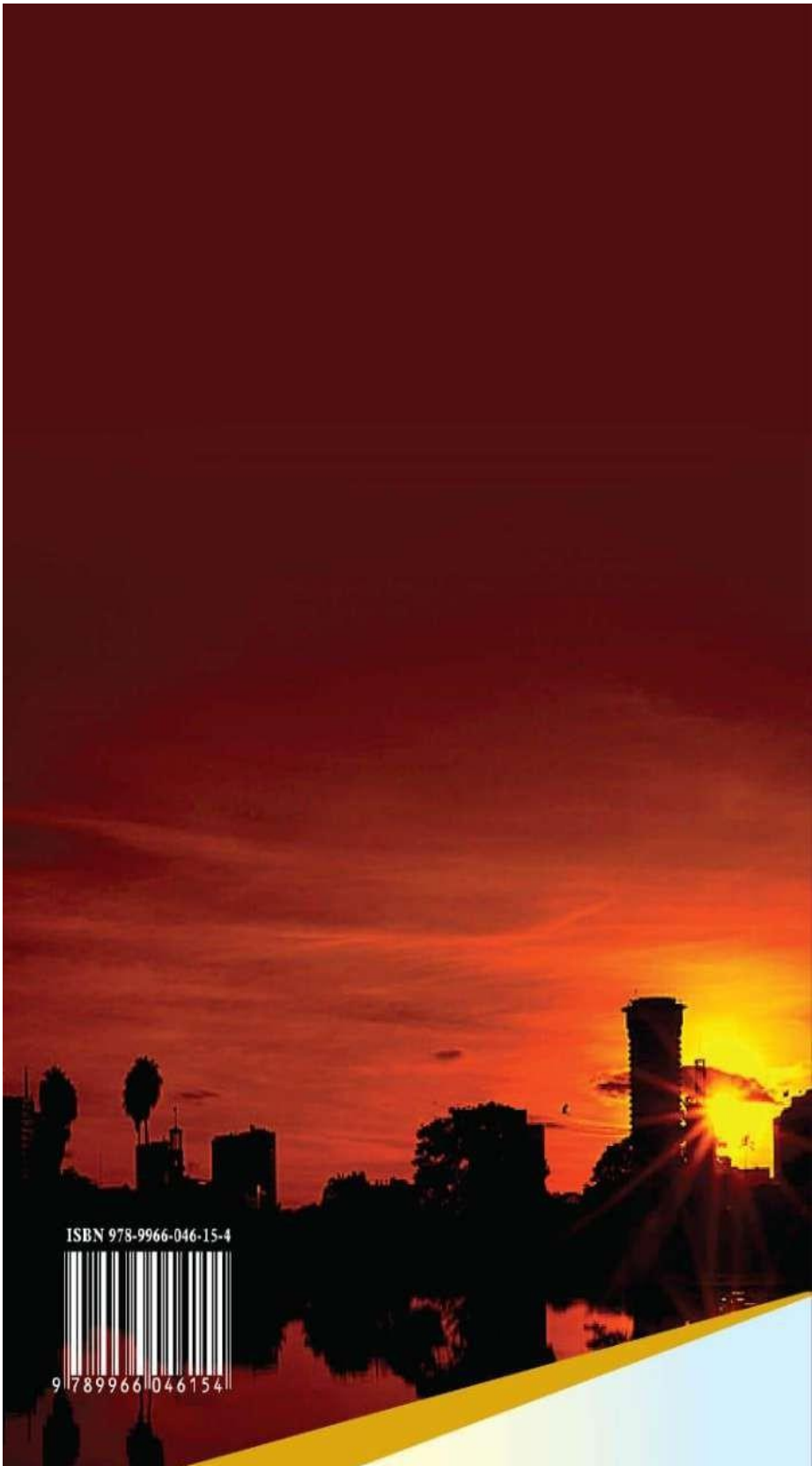
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