



ENVIRONMENTAL JUSTICE IN THE NIGER DELTA THROUGH AMARTYA SEN'S JUSTICE FRAMEWORK: EVALUATING OIL POLLUTION, DISPLACEMENT, AND LOCAL RIGHTS WITHIN SEN'S IDEA OF JUSTICE AND HUMAN FREEDOMS

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Abstract

In this paper, the environment justice of Niger Delta in Nigeria is discussed within the framework of capabilities approach to the environment justice and the comparative justice approach outlined by Amartya Sen. The review evaluates the fact that oil pollution, displacement, and violation of the local rights are systematic injustices that restrain human capabilities and freedoms. According to the difference between niti (institutional arrangements) and nyaya (realized justice) as postulated by Sen, this paper confirms that even with formal environmental protection laws, the reality in the lived conditions of the communities in the Niger Delta shows that there is a deep-rooted environmental injustice. This paper presents a case based on the empirical evidence of UNEP evaluations and existing studies to argue that the realization perspective as put forward by Sen is useful in explaining and eliminating environmental injustices that have been suffered in the region during the past six decades.

Keywords: Environmental justice, Niger Delta, Amartya Sen, capabilities approach, oil pollution, human rights.

Introduction: The Niger Delta's Environmental Crisis

Niger Delta is one of the most interesting cases of environmental injustice existing in the world, as oil mining has practically suppressed the human capabilities and freedom in Nigeria during more than 60 years. The impact of oil activities has gone further and deeper than expected since oil production began in 1950s leaving the communities with hopeless health issues and drinking water that contains excessive carcinogens (United Nations Environment Programme, 2017). This is a systematic deterioration of the environment, which is a direct compromise of what Amartya Sen envisions as human capabilities substantive freedoms that people have to lead a life that they love (Sen, 2009).

The theory of justice by Sen focuses on comparative analyses regarding what is more or less just, and the comparative analyses made on the basis of merits of different societies which in fact are the product of institutions and social interactions (Sen, 2009). This model is a realization-oriented model, as opposed to transcendental models of perfect justice, which gives very useful avenues of explaining environmental injustices in the Niger Delta. By discussing oil pollution, dislocation and violation of local rights in the context of Sen sense of justice, this paper finds that the Niger Delta ecological degradation is a derivative failure of niti (organizational propriety) and nyaya (realized justice), and that it systematically upsets the freedoms of human agency and human capacity.



Sen's Justice Framework: Philosophical Foundations

The Capabilities Approach and Environmental Justice

The Capability Approach developed by Sen in the 1980s as an alternative to more specific economic indicators such as GDP growth deals with the enlargement of a capability and notions of poverty as a deprivation in the ability to live good lives (Robeyns, 2017). The strategy dwells upon actual capabilities of the people to live the life they consider worth living, rather than rights or freedoms to do so, what they are able to do and to become (Sen, 1999).

Recently, capabilities approaches have been combined with the concept of environmental justice, and researchers prove that human-human interactions are mediated by Nature, and the injustice reduces capabilities space either spatially or in time (Ballet et al., 2013). The questions of environmental justice may lead to the limitation of access to certain abilities, such as the ability to engage in the polluting activity, and to realize that capabilities worthy would be culturally and context-dependent (Holland, 2008).

Sen's Comparative Approach to Justice

As Sen radically breaks with the old ways of thought, it is noted that human beings have strong conceptions of fairness and acute senses of aversion to apparent injustice, and thus believes that human beings are just as concerned about eliminating removable injustice as they are being self-interested (Sen, 2009). This realization-based comparative approach taken by Sen drifts his mind to that of his predecessors such as Adam Smith who aimed at evaluating the desirability of certain social achievements instead of identifying first principles that would be ideally just (Sen, 2009).

The framework interrelates particularly on environmental justice as justice is found to be to a degree and evaluated as somewhere along the continuums and allows any meaningful comparison of the degree of justice in different institutions without ideal transcendental justice ideas (Sen, 2009). This is mainly applicable in the case of the Niger Delta where justice may not be perfect but definite judgments can be established where the current circumstances are obviously unjust and can be fixed.

Sen draws a difference between *niti* (organizational correctness and institutional arrangements) and *nyaya* (realized justice in the lives of people). This difference is very important in comprehending environmental issues in the Niger Delta. Nigeria has the legal framework and governmental organizations governing the environment (*niti*), but real-life practices of the affected groups indicate immense shortcomings of justice fulfilled (*nyaya*). The framework used by Sen requires that attention is paid to real results of life of people and not just institutional decency.

Philosophical Analysis: Environmental Degradation And Capability Deprivation

Scale and Scope of Oil Pollution

Niger Delta, a mangrove ecosystem, swamp habitat, and tropical rainforest area of about 70,000 square kilometers, accommodates more than 30 million people of more than 40 ethnicities (Onyena & Sam, 2020). In the Niger Delta, it is estimated that the annual spillage of crude oil amounts to 240, 000 barrels, and most of the spills are caused by unknown reasons (31.85%), third parties (20.74%), and mechanical problems (17.04) (Nriagu et al., 2016).



A recent study informed by earth observation data and artificial intelligence found out that an average of about 5,644 hectares of mangroves were dying every year between 2016-2024, which was equivalent to 17 Central Park forest areas every year, and pollution rates were estimated similarly as 13 million barrels of crude oil since the 1950s (O'Farrell et al., 2025). This is an organized environmental annihilation in gigantic measures.

In no less than 10 communities in the Ogoni region, hydrocarbons pollute drinking water to a significant degree. Benzene has been found in Nisisioken Ogale community to be over 900 times in excess of the recommendation by the world health organization in drinking water (UNEP, 2011). In 2019, a scientific paper noted that oil spills within 10km of mothers living in Niger Delta increased the rate of neonatal death and health malformation in those children who survived by two times (Omokaro, 2024).

Based on the capabilities view of Sen, the conditions are the systematic denial of primary human capabilities. The most fundamental capability which is the ability to live is directly endangered by the pollution level leading to the disease and untimely death. The ability to maintain bodily health is deeply impaired in cases where the source of water is toxic to the body with 900 times the safe level of carcinogens. There is a threat to the economic security potential because the conventional ways of living like fishing and farming are no longer possible since the environment is being destroyed.

Displacement and Rights Violations

More than half-century of unceasing oil spills and gas flaring have led to severe destruction of the environment of the Delta community, resulting in reduced fish harvests, low agricultural yields, and poverty (Environmental Rights Action, 2015). Security forces have carried out summary executions, assaults and other abuses on a regular basis as hundreds of people were killed in November 1999 by the soldiers when they attacked the Odi community (Human Rights Watch, 2000).

Less violent struggle took place in the 1990s after oil spills started to threaten livelihood and the environment in the 1960s and at very high costs as demonstrated by 1995 hangings of 19 Ogoni community figures including Ken Saro-Wiwa (Corporate Accountability Lab, 2022). The environmental and human rights activists also claimed they were attacked by military forces accused of Shell assistance even after it stopped its activities in the Niger Delta, resulting in the deaths of thousands of people, displacement of communities, and mass exodus (Corporate Accountability Lab, 2022).

One of the limiting factors is the necessary criticality of the Nigerian constitution, where there is a constitutional loophole on how to monitor environmental justice and restore resources to the locals, since there is no constitutional avenue where natives have a better chance of controlling resources on their land (Ukhurebor et al., 2021). Shell has been seeking regulatory approval to dispose of its Niger Delta operation, which has created concern that it would lift decades of gruesome human rights crimes due to oil spills (Amnesty International, 2024).

In the eyes of Sen, such trends are deep failures of *niti* and *nya*. Regulatory frameworks are ineffective and unenforced on an institutional level. UNEP identified regulators as weak and often the oil companies had oil spill investigation agencies that were wholly reliant on the oil companies to perform work (UNEP, 2011). Poor implementation, lack of adequate resources and overlapping roles of regulatory bodies have failed to stop and control oil spills due to the current regulatory environment (Ewim et al., 2023).



At a deeper level, contextual justice (nyaya) does not manifest. In the period 1976 to 2001, more than 6,800 spills had been reported which led to loss of approximately 3 million barrels of oil, none of which was compensated according to the communities and no remedies were carried out (UNDP, 2001). Nowadays, 16,000 infants are killed by long-term pollution each year and the population lifespan in Niger Delta is ten years shorter than that of the rest of the population (Friends of the Earth Netherlands, 2021).

Capabilities Deprivation Analysis

Sen constructs a framework with a number of core human capabilities increasingly degraded by the environmental degradation. The ability to live has a direct threat- oil spills in 10km of the mother residences increased the neonatal mortality rates twofold and also impacted the health of the surviving children (Omokaro, 2024). The potential of physical health is highly undermined-consumption of water that contains carcinogenic elements that are 900 times more than the prescribed WHO standards will produce crippling medical concerns among the populations (UNEP, 2011).

The economic security capacity is ruined, the presence of the oil industry has introduced economic exclusion and powerlessness, depriving communities of their resources and livelihoods (Nkem et al., 2024). The environmental capacity is destroyed- about 5-10 percent of the Nigeria mangrove ecosystems have been destroyed and rainforests that used to cover 7,400 km² was wiped out (Kadafa, 2012).

Sen focuses on open-mindedness namely, he urges us to see things and institutions through the eyes of outsiders who will not cede to the idea of nationalizing a moral discourse (Sen, 2009). Royal Dutch Shell was found guilty of failing to meet its duty of care in landmark 2021 ruling in Netherlands, in which a Nigerian plaintiff, Eric Dooh alleged: "At last the people of Nigeria can claim some form of justice in their hands" (Business & Human Rights Resource Centre, 2021). The global juridical recognition demonstrates open-mindedness which Sen is promoting and how it may enquire external accreditation of local injustices which have not been addressed by local institutions.

Realization-Focused Environmental Justice

The comparative aspect of Sen is founded on rational opinions on injustice diminishing as opposed to identifying ideal justice and assert that different opposing yet fair standards may arise (Sen, 2009). This would mean emergency response priorities in the case of Niger Delta, UNEP offered urgent remediation that would require 25-30 years to introduce modern technology and concerted efforts (UNEP, 2011). Improvement of capabilities should focus on direct interventions that would restore destroyed capabilities like access to clean water, health facilities, and rebuilding livelihoods. The principle of participatory justice demands the use of plural grounding and overlapping consensus as highlighted by Sen be enhanced by the use of public reason, open debate and rational argument between different value systems (Sen, 2009).

The institutional reforms should rethink the environmental regulation, monitoring, enforcement by the government and imposing improved practices by the oil industry, as well as create Environmental Restoration Centres of Excellence (UNEP, 2011). Proposed Shell operations sales should not be advanced until proper environmental pollution assessment is made, sufficient funds allocated to clean-up operations, and the local community consulted to the latter (Amnesty International, 2024).



Conclusion

The application of the justice framework to Niger Delta environmental issues as proposed by Sen helped to show systematic failure of institutional arrangements (*niti*) and attained justice (*nyaya*). The fact that human beings have very strong fairness conceptions and that they have a severe dislike of witnessing blatant unfairness (Sen, 2009) is very tone ringing in the Niger Delta, as the community has always protested against the degradation of the environment despite the overwhelming oppression.

The fact on the ground indicates human rights, displacement and oil contamination has been a systematic problem over the last six decades, overturning the basic human capacity. The level of pollution (more than 13 million barrels of crude oil) and annual rate of mangrove loss (5,644 hectares a year) justify the necessity to approach the problem of environmental injustice with the required urgency (O'Farrell et al., 2025).

The comparative approach advanced by Sen gives hope because it is concerned with practical measures of reducing injustices rather than ideal measures. It is not the realization that the world is not so just, but rather that we see there are injustices in the world that can be removed and that we wish they should be removed (Sen, 2009). According to Niger Delta case, such remedial action can and should exist depending on the environmental justice interventions that are based on capabilities.

Further research is needed to understand how successful Sen is in offering certain policy interventions that enhance human capabilities besides promoting ecological restoration. The Niger Delta experience may be relevant to the worldwide environmental justice struggles because it illustrates how theoretical justice frameworks can demonstrate how to consider how to participate in more sensible and fair human-environment associations.

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