Black Soot Emission and Right to Life in the Niger Delta: The Rivers State Experience

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Abstract

Besides the protracted environmental pollution and neglect of the Niger Delta region by the government and oil companies which had plagued the region for more than three decades; putting lives and livelihood at great risk, the recent case of black soot emission experienced in the region, breeds further threats to life as it constitutes a violation of the fundamental right to life of the people. Besides the common effects of the black soot which include, air pollution, irritation to the eyes, nose and throat amongst others, medical experts have also associated upper respiratory infections such as asthma, pneumonia, coronary heart disease, bronchitis, and other respiratory illnesses which can lead to untimely deaths are caused by the black soot. Against this background, this study examined the concept, emergence, causes, and health implications of black soot emission as a violation of right to life and threat to life expectancy in Rivers State. It identifies common factors that militate against the campaign to end the soot, and finally suggests ways the menace can be stopped for a healthy and sustainable life for residents of the state. It adopts the historical approach to data collection and analysis, as information sourced through primary

and secondary mediums, and were descriptively analysed. While the primary sources include oral interview, government announcements and publications, the secondary sources include books, newspapers, unpublished thesis, journals and internet materials all aimed at directing advocacy against the constant pollution of the environment through the black soot. Findings reveal that the cause of the black soot in the state can be traced to several sources to include, gas flaring, burning of tyres, cowhide, burning of stolen petroleum products by security agents and illegal refining of petroleum products popularly referred to as (*kpo-fire)* which collectively result in soot emission (air pollution) as currently seen in the state. Findings identify poverty, unemployment, and corruption by security agencies amongst others as major factors militating against the campaign to end black soot in Rivers State. The study concludes that sustained advocacy restraining all forms of environmental degradation, i.e, (illegal emission of black soot) in the state by individuals, government and corporations should be enforced in order to make the environment healthy for human habitation as threat(s) to the environment is a threat to life.

Keywords: black soot, emission, human rights, right to life, environment.

Introduction

Given the fact that every life, be it human, animal or biological exist in an environment, environmental condition becomes a key factor which either makes or mars its existence and survival in one way or the other. This is so because a healthy environment provides a life supporting system for human existence and survival as well as socio-economic progress (UNEP, 2011), while a polluted environment puts life and all of its elements in danger for survival and progress, hence, the quality of life depends heavily on the quality of the environment that houses it. Besides the protracted environmental pollution of the Niger Delta by oil companies which had plagued the region for more than three decades now; putting lives and livelihood at great risk, the recent case of black soot experienced in the region, Rivers State in particular breeds further threats to life following the

fears and consequences raised by concerned stakeholders. For instance, a recent BBC report reveals a 4% increase in respiratory illness in Rivers State, projecting that in 5 year times, there will be more likely an increase in Respiratory Tract Infections (RTI) and Cancer, (theportcitynews.com, 2021) due to constant air pollution arising from the black soot. Also, Ozorka (2021) reports that black soot emission in the state affects both plants and animals alike; while plants are unable to make food (Chlorophyll), animals, not excluding human beings are at the risk of respiratory sickness symptom in difficulty in breathing as a result of contaminated air arising from the black soot.

Consequently, the continuous deterioration in air quality in Rivers State over the past six years which have been discovered to be man-made, rather than nature through illegal bunkering and other factors has caused a lot of public outcry, protests and anxiety over the danger it poses to life, and consequent violation of right to life. Against this background, this study examines the concept, emergence, causes, and health implications of black soot emission as a violation of right to life and life expectancy in Rivers State, identifies factors that militate against the campaign to end the soot, and finally suggests ways the menace can be stopped for a healthy living and sustainable life for residents of the state.

It adopts the historical approach of data collection and analysis. Information for this study was sourced through primary and secondary mediums, and were descriptively analysed. While the primary sources include oral interview, government announcements and publications, the secondary sources include newspapers, unpublished thesis, journals and internet materials all aimed at creating awareness and directing attention of individuals, government, corporate bodies, etc to the human rights implications of black soot emitting in Rivers State.

Conceptual Analysis

Black Soot

Ewubare, et al, (2021) describes the black soot as a substance formed by combustion, or separated from fuel during combustion, rising in fine particles, and adhering to sides of the chimney or pipe conveying smoke especially the fine powder consisting chiefly of carbon that colors black. The soot consists of aerosols, which are tiny particulate matter whose granulometric dimensions range from

sub-micron diameters to about 10 microns and greater in size, (Ilten, et, al 2007). They are suspended in the lower troposphere, inhibiting cloud formation and capable of causing long term environmental and health hazards to residents. The main effect of black soot is that it contaminates the air, causing air pollution which potent danger to life be it human or biological.

First, the World Bank defines pollution as the presence of one or more contaminants such as dust, fumes, gas, mist, odour, smoke, or vapour in quantity, in the outdoor atmosphere which are actually or potentially injurious to human, plant or animal life, or property, or which unreasonably interferes with the comfortable enjoyment of life and property.

On the other hand, air pollution is the introduction of particulate or gaseous contaminants into the atmosphere, in quantities that can cause adverse changes in the environment. It is characterized by an increase in the oxidizing capacity of the atmosphere, reduced atmospheric visibility, and the deterioration of air quality in a region (Wang et al, 2014). It significantly influences the climate, living environment, and human health at great risk. This by implication is what the black soot portrays with respect to life and right to life in the state.

Consequently, in recent times, cases of dry deposition contamination otherwise known as 'black soot' has been reported and experienced in many parts of Port Harcourt and its environs at a large and unusual levels; causing discomfort, respiratory ailments and aesthetic concerns. Giami (2018) notes that amenities left unattended for a few days are often coated in thick soot, increasing the cost of maintaining clean and healthy households on one hand, and causing greater health risk on the other hand.

Right to Life

For emphasis, the Universal Declaration on Human Rights (1948) states categorically in Article 3 that: "*Everyone has the right to life, liberty and security of persons*". This declaration unarguably sets the modern foundation and international blueprint for the protection of human rights, and right to life inclusive. Following this development, by Dec.1966, the General Meeting of the UNO adopted two covenants; the International Covenant on Civil and Political

Rights that centered on the subject of the human civil and political rights, which Nigeria ratified on 9th Dec., 1974, and Article 6 of the International Covenant on Civil and Political Rights (ICCPR) further affirming that "Every human has the inherent right to life."

Also at the municipal level, Section 33(1) of the 1999 Constitution of the Federal Republic of Nigeria in recognising the right to life provides that: "*every person has the right to life, and no one shall be deprived intentionally of his life, save in execution of a sentence of court in respect of a criminal offense of which he has been found guilty"*

Consequent upon the above submissions, the concept of right to life has been so agued, espoused and expanded in many jurisdictions not only to mean when life is taken unlawfully but that anything either human and environmental conditions that threaten an individuals' life or means of existence is considered a violation of his right to life. There is no doubt that issues concerning environment is of concern not only to environmental scientists, but also to every person who lives on this planet, Emeruju (2014).

For example, the Supreme Court of India in *Olga Tellis v. Bombay Municipal Corporation* held that the sweep of right to life…does not mean merely that life cannot be extinguished or taken away, but equally important facet of right to life is the right to a healthy environment because no person can live without a life supporting environment. This implies that the environment is a element of life and should be nurtured and preserved to protect life. On the contrary, with the emergence and emission of black soot in the state, life is not only put at great risk, but its existence is seemingly violated.

Sources of the Black Soot in Rivers State

Though, the actual source of the black soot has been a subject of several debates amongst government, professional and unprofessional bodies, however, to be objective, this study identifies and attributes the emergence of black soot in Rivers State to several sources to include illegal bunkering, gas flaring, burning of tyres, cowhide, burning of stolen petroleum products by security agents, etc. which collectively result in soot emission (air pollution) as currently seen in the state.

Salami, (2018) states simply that soot is the byproduct of the burning of fossil fuels which includes burning coal for electricity or industrial fuel, manufacturing, oil refining, and motor vehicles. It enters the environment either as a solid particle or as a gas which turns into a particle after it has been released. These particles can end up very far away from their site of origin.

To highlight the various debates on the causes of the black soot, Salami (2018) records that the General Manager of the Port Harcourt Refinery Company (PHRC) traced the soot to illegal oil activities undertaken by bunkers and vandals. While in a contrary opinion, Peter Idabor, Director General of the National Oil Spill Detection and Response Agency (NOSDRA), blames the soot on abattoirs burning tyres, heating of asphalt, burning of stolen petroleum products by security agencies. The blame game continues and left no source vindicated. While some residents blamed the soot on the burning cowhide for leather, others blamed illegal refineries, locally called kpo-fire in Rivers State and Niger Delta at large as major source of the black soot raining over the state daily.

Similarly, multinational companies cannot be exonerated when discussing the source of black soot in the state. Orji, (2021) recalls that multinational oil companies such as Shell, ExxonMobil and Chevron, which have been operating in Nigeria since the 1950s, when oil exploration began in commercial quantity have flared more than 800 million standard cubic feet of gas from more than 140 points across Nigeria every day particularly in the Niger Delta and Rivers State.



Showing gas flaring in Rivers State, (Source: Stakeholder Democracy Network, SDN)

Orji (2021) further adds that the Nigerian Military in bid to stop illegal oil theft and refining, targets and burns hundreds of bunkering sites and trucks conveying illegal products in the past few years during raids in the creeks in Rivers. This destruction caused further pollution which contributes to generation of black soot in the state. Also, the burning of refuse, and heavy industrial machines used in the production of asphalt and fertiliser-producing firms have been seen as another source of black soot in the state.

Holistically, the study identifies all of these as undeniable sources of the 'slow killer' (black soot).Unarguably, while most coastal communities contiguous to the artisanal refineries whose activities generate the most part of this air pollution dilemma are constantly 'fumigated'; experiencing continuous showers of soot deposits, enveloping every sphere their blackened daily existence, other sources mentioned as emitters of the same soot remain accomplices in the act they are still considered as agents of air pollution.



Showing Artisanal Refining site at Emouha, (Source: Stakeholder Democracy Network, SDN)

The Environment and Human Rights

Human and environmental rights advocacy have topped discussions at most international fora due to its undetectable nexus. As the global concern for human rights increased, so also the concern for environmental rights protection increased.

While the environment is a container for resources man needs to survival, those resources cannot be explored and harnessed without human beings whose lives must be protected.

Though, Shanthakumar (2009) notes that one of the paradoxes of modern life is that technology and the quest for economic survival has propel and compel people to live in unprecedented comfort (environment) while remaining in unprecedented ignorance of the natural physical and biological systems that support their life systems. This life system as Shanthakumar pointed out suggests the global environment which the quest for technological advancement and economic survival has been greatly battered threatening life and survival.

Again, as stated earlier, the environment is a life supporting system for human existence and survival as well as provides required for socio-economic progress (UNEP, 2011). It is the source of global economy that must be protected and managed sustainably, all efforts directed at managing and administering the environment is to ensure the continued existence of the biological diversity entities on the earth of which humans are the prime species and without it, which humans cannot exist (Aluko, 2005)

Section 17(1) (d) of the Constitution of the Federal Republic of Nigeria, (1999) as amended clearly states that where a natural resource is being exploited and the environmental consequences to the host community outweigh its benefits, the government is obligated to stop its exploitation. It is, thus, within the duties and powers of the state to impose restrictions on the use of those resources and factors which adversely affect life and its development.

Similarly, Emejuru, (2014) notes that though previous constitutions of Nigeria did not make provision for the protection of the environment until the coming into existence of the 1999 Constitution. While the 1999 Constitution made provision for the environment, it did not deal with environmental protection as such. Although environment was given constitutional status, its provision only portrays Nigeria as a country that is environmentally unconscious of environmental problems. Section 20 of the Constitution provides that:

The state shall protect and improve the environment and safeguard

> *the water, air and land, forest and wild life of Nigeria*

He notes further that Section 20 of the Constitution is provided for under Chapter 11 as one of the "Fundamental Objectives and Directive Principles of State Policy". This brings a new dimension to state responsibility by obliging the state to protect and improve the environment for the good of the society as a whole. It laid down the basic foundation for environmental legislation and the governments' responsibility in Nigeria. Thus, Section 13 of
Chapter 11 states that:

> *It shall be the duty and responsibility of all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this chapter of this Constitution.*

Consequently, the above constitutional provisions identify the importance of the environment with regard to nurturing, preserving and protecting life for the benefit of all. Therefore, the connection between the environment and life cannot be downplayed; hence the need to protect the environment in order to protect life becomes eminent.

Effects of Black Soot

Besides the common effects of air pollution which include irritation to the eyes, nose and throat, black soot has been associated with upper respiratory infections such as asthma, pneumonia, coronary heart disease, bronchitis, heart disease and some other respiratory illnesses. They are detrimental to human health as they take part in gas exchange during each breath. The black soot particularly has a severe level of toxicity capable of causing cancer which may lead to premature death. Research has also shown that many premature deaths are directly related to soot in the environment. Environmentalists say the soot has been found to contain sulphur dioxide and nitrogen dioxide, which cause acid rain when combined with moisture.

Orji (2021) notes that since scientific findings reveal that soot particles are microscopic, just about 2.5 micrometres in size, and 30 times smaller than human hair, they are able to creep into the nose, lungs and bloodstream, where they can cause significant damage which he described as 'Soot Poisoning'. It has been

linked to a variety of illnesses, including asthma, infertility; breathing difficulty, skin irritation, bronchitis and cancer as doctors in Port Harcourt warn that without action, more than 6 million residents face the risk of cancer in the next few years. This obviously is a violation of right to life of residents of the state as the menace continues.

Similarly, following recent increase in activities of illegal refiners and bunkerers, there is fear in Rivers State that this may cause a surge of deadly black soot in the atmosphere. For example, a reviewed report of a technical team set up by the Rivers State government and headed by the state's former Commissioner for Environment, Prof. Roseline Konya, revealed that about 22,077 persons have suffered from respiratory related ailments in the last five years, (https://guardian.ng/features/again-soot-spike-in-rivers-raises-fresh-health-concerns/). Confirming how the black soot menace constitutes violation of right to life, the report reveal that based on the risk of analysed pollutant samples of the black soot, heavy metals concentrate found in the soot and measured in the study showed that thousands of people in the state are likely to suffer cancerous and non-cancerous diseases from the soot in the atmosphere.

Soot and Right to Life

No doubt, since life is that which makes a thing 'living', the need to protect it has received universal endorsement, hence the various legislations on right to life forming our extant laws. This again explains why the main objective of every government is first to protect lives and properties of its citizens and Section 33(1) of the 1999 Nigeria Constitution recognizes the right to life of all Nigerians as inalienable.

Similarly, while the environment has been described as being critical to life and survival, Otubu (2010) notes that today more than ever, societies have come to recognize that anthropogenic destruction of the planet's sustainable biodiversity negatively impacts humankind, placing human life at great risk. This cause-and-effect relationship that exists between environmental collapse and the subsequent risk to our existence (fatalities) can no longer be ignored; hence, deliberate efforts should be made to preserve the environment in order to protect life.

But unfortunately, Nigeria, Niger Delta and Rivers States in particular have not received sufficient willpower and boldness to enforce legislations in this direction. For example, while life expectancy for the rest of Nigeria increased for men by seven years (to 63.7) and eight years for women (to 66.4) between 2006 and 2016, in Rivers State, it however, sadly dropped to between 40 and 43 years as a result of its air, land and water pollution, according to the UN Environment Programme (UNEP's Report). The quality of air in the Port Harcourt metropolis and surrounding towns, as well as other parts of the Niger Delta have been studied by various scholars, who rank the region's air quality amongst the top 10 most polluted regions in the world (Oyegun, 2016; Weli, 2014; Kuenzer, et al, 2014; Sokari, 2016; UNDP, 2004; Oyekunle, 1999, cited in Giadom, 2018).

These reports testify to the fact that continuous air, land and water pollution through the emission of black soot tactically extinguishes life, by reducing life expectancy in the state thereby constituting violation of right to life of residents. Orji, (2021) further reports that globally, outdoor air pollution killed more than 4.2-million in 2016 alone and that soot is a major driver of those numbers in low and middle-income countries such as Nigeria, where over 93% of the population is exposed to extreme levels of air pollution, an amount far exceeding the World Health Organisation's recommendation. Health workers believe there has been a surge in cases of heart, lung and blood vessel diseases in the past four years in Rivers State, but poor record keeping means that the exact estimates are imprecise and in most cases, underestimated, hence, the actual casualty figure not determined.

From the above reports, if scientific and medical evidences labeled the black soot to have such damaging and devastating impacts on life of both animals and plants as Ozorka (2021) pointed out, and its emergence manmade as reported by the National Oil Spill Detection and Response Agency (NOSDRA), then it can be said without mincing words that soot emission is a violation of right to life, and its emitters are violators of rights to life of residents of the state.

Factors militating against ending Black Soot in River State

Since the emergence of black soot in the state in 2016, and its environmental and health implications to life unraveled, several campaigns to end the soot has met

with stiff resistance due to a number of factors combined together to frustrate efforts. These factors which include poverty, unemployment, and corruption by security agencies amongst others have continued to frustrate attempts to end the menace.

Overtime, poverty and unemployment have been identified co-joined factors militating against security, peace and development thereby causing the youths to engage in acts capable of undermining social and environmental security such as illegal refining, a major source of black soot in the state. For example, analysis by states show that at 57%, Rivers State had the highest unemployment rate closely followed by Bayelsa state with 52 in the country; a record that puts even an average person or worker in the state under economic pressure not to talk of the unemployed who see such practices as succor and means of survival. Consequently, the huge economic fortunes made by some operators of illegal refinery across the state make it difficult to stop the evil, not considering the immediate and long-term impacts.

It is on record that in (2016 and 2018) respectively, Nigeria, overtaking India, has been described by National Bureau of Statistics (NBS) on Computation of Human Development Indices for the UNDP Nigeria Human Development Reports as the *Capital of Global Poverty*, with Sokoto, Jigawa, Ebonyi, and Rivers with 58.9% listed as centres of extreme poverty, (https://tribuneonlineng.com/sokoto-rivers-are-capitals-of-poverty-unemployment). This record shows that hunger, poverty, and unemployment are high in these states, and hence the youths' resolve to beat the situation not minding the repercussion engages in activities inimical to collective peace and security like pipeline vandalism, oil theft and illegal bunkering identified as major source of the emission.

Another factor considered a major spoiler in the campaign against black soot in the state is corruption by security agencies that have been identified as major accomplice in the act. For example, the Rivers State Governor, Nyesome Wike in a renewed drive to end the soot in the state laments that security personnel not only aid bunkering in the state but some of them also own and sponsor bunkering points and sites. For instance, the governor ordered the immediate redeployment

of the DPO of Rumuji, Emouha who was accused of owning a bunkering site in the LGA, (Thisday Jan, 15, 2022).

Also, a cross section of respondents and operators of illegal refinery interviewed who preferred to be anonymous reveal that they pay huge amount as returns to security personnel on weekly and monthly basis for coverage against arrest. For instance, in Emouha, Okrika, Obio/Akpor, Port Harcourt, Asari-Toru, Akuku-Toru, Gokana, Etche, Ogba/Egbema/Ndoni, etc, the Nigeria Army (JTF), Police and NSCDC personnel have been mentioned in the act of aiding the practice. With the cordial relations and synergy that exists between operators of illegal refiners and security agencies that should enforce the campaign against oil theft and illegal bunkering, the business has continued to thrive; not minding the colossal damage done to the environment and human health. This is most unfortunate as the environment and right to life continue to be violated at the expense of systemic corruption and personal gains.

No doubt, Section 17(1) (d) clearly states that where a natural resource is being exploited and the environmental consequences to the host community outweigh its benefits, the government is obligated to stop its exploitation. It is, thus, within the duties and powers of the state to impose restrictions on the use of those resources and factors which adversely affect life and its development It is against this background that the state government recently gave a matching order to local government chairmen and traditional rulers to dismantle all sites of illegal bunkering in their locations. This however recorded a huge progress as major bunkering sites across the state were uncovered and materials destroyed, suspected oil thefts arrested as ordered by the state government leading to noticeable reduction in the daily soot emission. However, it is our hope that this time the tempo should be sustained since similar orders failed in the past without favourable outcomes.

Conclusion

There is no doubt that the continuous deterioration of air quality in Rivers State through constant emission of black soot pollution which directly affects the biological, physiological and mental health, as well as physical welfare of human beings and making survival difficult due to change in physical, chemical and

biological conditions of the environment constitutes a violation of right to life as guaranteed by our extant laws. The unabated discharge of effluents into the atmosphere first through oil spills, gas flaring, dumping of refuse, acid rains, and now the dangerous emission of black soot by illegal refining have considerable effects on the quality of human life in the state.

Though, concerned stakeholders in the human rights, environmental, health, and legal sectors, etc. have reacted in several ways through protest, publications, public awareness campaigns and orientation to draw the attention of all to the dangers of the practice but to no avail. Rather, from 2016 to 2021, the practice soared greatly with combined factors militating against the advocacy.

This study utilizes this opportunity to further enumerate on the health implications of black soot on right to life in Rivers State, and warned that if urgent steps are not taken by all and sundry to save the situation, life expectancy in the state will further shrink beyond the present deplorable state capable of causing an impending devastation that no one shall be immune to.

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