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Review

## Democracy, plea bargaining and the politics of anti-corruption campaign in Nigeria (1999-2008)

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**This article examines the genuineness of the campaign against corruption in Nigeria by the democratic regime inaugurated in 1999. It underscores the rationale behind the introduction of plea bargaining as a condition for mitigation of criminal offense in Nigeria. The paper argues that the way and manner by which this element entered the country's legal document was itself criminal in nature and lack any known framework when compared to the operation of the concept in other countries. The paper concludes that the country cannot wage any serious war against corruption with plea bargaining in force. It explains that Nigeria does not need the notion of plea bargaining at this particular stage of the campaign against corruption as there is the need to attain some level of acceptable cleansing before plea bargaining can be a subject in the criminal or legal book of the country.**

**Key words:** Democracy, corruption, plea bargaining and criminal justice system.

### INTRODUCTION

Plea bargain is an agreement in a criminal case between the prosecutor and the defendant that usually involves the defendant pleading guilty in order to receive a lesser offense or sentence. Plea bargain is often referred to as really just establishing a "mutual acknowledgement" of the case's strengths and weaknesses, and does not necessarily reflect a traditional sense of "justice". In most cases, it is employed to accelerate the pace of justice and more often than not, to reduce or decongest the prison. On the other hand, plea bargains are employed to reduce the caseloads of prosecutors in order to pave way for effective prosecution of more serious cases. This is

apart from the fact that defendants save time and money by not having to defend themselves at trials. However, the adoption of plea bargains usually comes with an acceptable framework for its operation in order to provide justification for its use. It is important to note that the aforementioned primary justifications of plea bargains all provide benefits to the respective players – the court, the prosecutor and the defendant. It must be pointed out that plea bargains do not inherently offer any benefit to the society at large or take any steps towards a truly just outcome. Consequently, many in the legal field have openly challenged the plea bargaining system that it is

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immoral, unethical and unconstitutional.

Over the years, one major problem that Nigeria, albeit other countries, has had to confront in their drive towards socio-economic and political development is the problem of corruption. While it is acceptable that corruption is not peculiar to a particular country or continent, it has come to represent a feature of governance and politics in a good number of African countries. In other words, just as the history of corruption is as old as the history of man and the world he lives in (Lipset and Lenz, 2000), the point being made is that some countries are more corrupt than others, and Africa, unfortunately, seems to have produced some of the most corrupt polities.

In spite of the established negative impact of corruption on state and society (Huang, 2008; Mauro, 1997), corruption remains a pandemic in Nigeria. Successive administrations in Nigeria have consequently initiated various strategies aimed at its drastic reduction if not elimination, including the establishment of structures and institutions to combat the crime of corruption. However, despite the activities of these institutions and promulgation of laws against the crime of corruption, the disease has continued to rear its ugly head at every level of governance in Nigeria. The lapses in the procedure for prosecuting criminal cases in Nigeria, such as the long period and complexity of investigations, paved way for the application or adoption of plea bargains. It is within this narrative that the concept or, more directly, the 'policy' of plea bargain in the Fourth Republic must be understood and engaged.

Bearing in mind the history of politicization and trivialization of anti-corruption policies in post-colonial Nigeria, this paper therefore argues that the adoption of plea bargaining into the criminal justice system in Nigeria (as evidenced at the dawn of the Fourth Republic) is itself a corrupt practice by the ruling party. It specifically makes the point that the unequal and imbalance nature of the agreement is a ploy to ensure that public office holders accused of corruption are set free without losing their stolen fortune.

## METHODOLOGY

This paper adopts the qualitative method in its analysis. By qualitative method, the paper adopts the key informant interview to elicit information from stakeholders in the campaign against corruption and prosecution of corruption cases in the country. In this wise, the paper considers very important the opinions of Head of the Legal Departments of both the EFCC and ICPC. Also, the paper considers as important the interview of Head of

Law Departments in the Universities in order to add academic flavours to the output of the paper. In order to achieve this, the author interviewed the Head of the Legal Department of ICPC in Lagos and his counterpart in the EFCC in Lagos. Apart from this, some identified lawyers working with the two anti-corruption institutions were also interviewed in order to confirm or contradict the opinion of the Heads.

Also, the Head of Research at the Nigerian Institute of Advance Legal Studies was also interviewed. In the same manner, the Dean of the Faculty of Law of Lagos State University was also interviewed. The information gathered through these key informant interviews has helped in enriching the paper. However, it is important to state that the paper limited its horizon to the activities of the anti-corruption agencies in Lagos for convenience sake.

## DEMOCRACY, CORRUPTION AND PLEA BARGAIN: CONCEPTUAL AND THEORETICAL CLARIFICATIONS

The fact that democracy allows for freedom does not presuppose that such freedom can be exercised without certain limitations. It is widely accepted that democracy operates based on constitutionalism which should not be compromised, particularly in explaining the power relationship between the governor and the governed. The basic consideration for categorizing a democracy as being 'true' or 'strong' is the extent to which it respects constitutionalism. With this, it is obvious that the power of the rulers can be checkmated as well as the activities of the followers. The practice of democracy in different forms in different parts of the world has made complex the meaning of democracy. While the conduct of periodic elections has been considered an important indicator of democratic practice, the process for this conduct has been neglected which in fact constitute a big minus for democracy itself, particularly with reference to third world countries. Democracy in any society has different facets which must be holistically considered to measure democracy. We will not delay the discussion on democracy with the various definitions of the concept as this has been variously considered by the author and others. Nevertheless, there have been several attempts by scholars to classify democracy under different headings and theories. This taxonomy of democratic theories has helped in understanding better the dynamics of the concept of democracy and its different shades as can be found in different countries. For instance, Cunningham (2001) divides contemporary democratic theory into seven categories including liberal democracy,

classic pluralism, catallaxy, participatory democracy, democratic pragmatism, deliberative democracy and radical pluralism. In his analysis, liberal democracy receives the most extensive discussion due to its dominance in modern Western political thought and the affinities attributed to it such as level of participation allowed by the theory, its degree of egalitarianism, its notion of autonomy and selfhood, the role of positive and negative conceptions of freedom and a host of others. Classic pluralism, on the other hand, stresses the clash of interest groups and the need for processes to establish social order and stability. Cunningham investigates its views of power, leadership, and political culture in this conception of democracy, and some of the criticisms of its conservative implications. In view of its abstract view of group power and its rejection of economic classes and ethnic and racial groups as relevant interest groups, this perspective is criticized by more radical democrats as an ideology legitimating the corporate capitalist system and having little compatibility with meaningful democracy.

“Catallaxy,” is a species of “social choice” theory that takes self-interested individuals as the units of social analysis. Cunningham takes the term “catallactic” from the classical liberal theorist Hayek, and accordingly takes what is now called a neo-liberal or “free-market” view of democracy. He presents a clear picture of this theoretical framework and discusses its analytical strengths and weaknesses, including both empirical and normative problems with applying its economic account to political activity, including governing, voting, and citizenship in general. Not surprisingly, critics find the connection between this theory and any meaningful conception of democracy to be rather tenuous. Cunningham’s analysis of participatory democracy was brief and focused on the scale on which direct democracy can exist in a viable manner, the role (or non-role) of a state in a participatory system, and the tension between the libertarian and authoritarian dimensions of self-determination by small-scale, often relatively homogeneous groups. The strengths of the participationist critique of representation, of depoliticized consumer society, and of unresponsive political and economic systems in general are brought out, as are possible problems with a participatory approach, such as the dangers of majority tyranny and social pressure. The pragmatist emphasizes the relevance of democratic values and practices to diverse spheres of human activity, the importance of the social context in which democratic phenomena develop, the fact that the achievement of democracy in any realm is a matter of degree, and the need for a creative democratic response to particular circumstances, rather than a democratic ideological absolutism. From a

pragmatic point of view, democracy requires experimentalism, and some questions – even basic ones about structures and procedures --cannot be answered through ready-made theories.

Another theory discussed by Cunningham is the deliberative democracy theory, which stresses the centrality of questions concerning public discourse, justification procedures, norms of reciprocity, and the conditions for free, rational and democratic formation of policy. This perspective shares with varieties of civic republicanism and participatory democracy an emphasis on the transformative effects of participation in democratic processes. The final theory discussed by Cunningham is the “radical pluralism,” which is associated most closely with various post-modernist and post-structuralist theories. Another classification of democratic theory can be found in the works of Kelly Meier<sup>1</sup>. Meier classified theories of democracy into four basic theories which are protective democracy, pluralist democracy, developmental democracy and participatory democracy. Protective democracy has its root in liberalism and believes government exists to protect the rights of individual citizens. Governmental involvement in the lives of citizens should be focused on protecting material wealth and maintaining a free market. Protective democracy acknowledges that there will be an imbalance in wealth and assumes the elite will be in power. It discourages broad-based civic engagement unless it is related to protecting civil liberties. The pluralist theory connects democracy to power held by special interests. Pluralists believe that citizens are disinterested in becoming involved. Those who are engaged do so through smaller political groups. Governmental leadership rests in the hands of those who are elected, and they are generally considered elite. Special interest groups play an important role and jockey for power in areas related to specific issues and values.

In a similar vein, developmental democracy assumes the best about society. This theory considers citizens to be engaged in civic issues and focused on what is best for society as a whole. Democracy is connected to morality. As citizens become involved in government, they acquire an understanding and appreciation of what is needed to improve services and communities. The developmental theory acknowledges the need for elected officials but believes the people are responsible for selection and oversight of their work. Participatory democracy is the last of the classification scheme of

<sup>1</sup>Meier, K.S. “Four Basic Theories of Democracy” [www.classroom.synonym.com/four-basic-theories-of-democracy-11726.html](http://www.classroom.synonym.com/four-basic-theories-of-democracy-11726.html)



Meier. Participatory democracy focuses on retooling government to encourage more citizen involvement. According to Meier, this theory emerged in the 1960s when student activism was common and issues such as the Vietnam War and civil rights provided an avenue for engagement. Advocates of this theory believe that non-governmental agencies such as corporations have too much control over the welfare of their employees. The main idea of this theory is to provide more involvement and control over all governmental laws and non-governmental rules pertaining to American citizens.

In what looks similar to the classification of Aristotle, Althaus (2012) classified the theory of democracy into three which are: republicanism, pluralism and elitism. Republican democracy connotes a healthy and respectful marketplace of ideas where citizens deliberate to make the best decision possible based on a set of known options that come to light through reasoned debate. This is similar to Cunningham's deliberative democracy and Meier's participatory democracy. The pluralistic approach to democracy centers on the benefits derived from competition among distinct interest groups. A key concept in this approach to democracy is advocacy (see Baker, 2002). Different interest groups advocate their position within specific rules that allow for at least a modicum of fairness, and the group able to generate the most power through a force of will wins. Of utmost importance under this model is that citizens recognize which positions serve them best and which macro-political entities (e.g., political parties) represent those political stances.

The elitist theory of democracy is considered the most interesting of the three classifications. According to Althaus (2012), infortainment is all that is needed for this democracy to function properly. That this approach to democracy reflects leadership by the few is self-explanatory: Experts are in charge. As a normative ideal, the experts with the most knowledge and the greatest virtue (i.e., lack of corruption) hold the most powerful positions in the social system.

However, we shall consider sacrosanct the variables to evaluate or judge democracy as outlined by Crowell. The first variable in judging democracy is the presence and employment of state institutions based on the rule of law. The second is the commitment of the elites to democracy which determines the direction and stability of the country. The third is the national wealth which shapes the national interests. Fourth is the existence and success of private enterprise because this represents another method for civilian involvement in the growth of the state. Fifth is the existence and size of a middle class which creates more security and catalyzes the development of a stronger

democracy. There will exist in most state, a poor and disadvantaged class of people; therefore, sixth, some degree of state sponsored welfare system is a necessary component for a viable democracy. Seventh is the spirit of a civil society and a political culture where citizens are allowed to be active in both local and federal governments. Eighth, following civil society, citizens must also have the opportunity for education and along the same lines – information must be allowed free distribution. Ninth, ethnic tension and regionalization within a state make democracy difficult, which is why a homogeneous society is beneficial to a democracy. Finally, the tenth and most visible element in a democracy is maintaining a favourable international environment where assistance and monitoring can be offered (Crowell, 2003). While one may agree with the ten variables outlined by Crowell, the point should be made that his ninth variable is restrictive and faulty. This is because heterogeneous society such as India has been able to sustain its democracy for over five decades and India is believed to be the largest democracy in the world today. Nevertheless, it is important to note that the nature of government does not prevent systemic decay and corruption. Attitude of the elites and the followers is sacrosanct in ensuring that the basic tenets of democracy are imbibed for socio-economic and political development of the society.

The scope of corruption is contextual and its incidence varies greatly, reflecting a country's policies and legislation, bureaucratic culture, political development and social tradition. However, it affects all facets of society, although it is inclined to be pervasive in some society more than others (Anti-Corruption Commission, Zambia, 2012). In the same manner, like the concept of democracy, corruption has received an extensive attention in communities, and perhaps, due to the fact that it has been over flogged in the academic and non academic circles, corruption continues to receive varied definitions. It has broadly been defined as a perversion or a change from good to bad. Specifically, corruption or "corrupt" behavior "involves the violation of established rules for personal gain and profit" (Sen, 1999: 275). According to the Longman Contemporary English Dictionary, corruption is defined as "the dishonest, illegal, or immoral behavior, especially from someone with power". Power in this sense is not restricted to public space, it also encompass official position in the private or social sector. It is considered as an effort to secure wealth or power through illegal means – private gain at public expense; or a misuse of public power for private benefit (Lipset and Lenz, 2000).

In addition, corruption is a behavior which deviates from the formal duties of a public role, because of private

gains. It is a behavior which violates rules against the exercise of certain types of duties for private gains – regarding influence (Nye, 1967). This definition includes such behavior as bribery (use of a reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private uses) (Banfield, 1961). Again, Osoba (1996) adds that corruption is an “anti-social behavior conferring improper benefits contrary to legal and moral norms, and which undermines the authorities” to improve the living conditions of the people.

Corruption poses a serious development challenge to the socio-political and economic fabric of a society. In the political realm, it undermines democracy and good governance by flouting or even subverting formal processes. Corruption in elections and in legislative bodies reduces accountability and distorts representation in policymaking; corruption in the judiciary compromises the rule of law; and corruption in public administration results in the unfair provision of services. More generally, corruption erodes the institutional capacity of government as procedures are disregarded, resources are siphoned off, and public offices are bought and sold. At the same time, corruption undermines the legitimacy of government and such democratic values as trust and tolerance. Corruption also undermines economic development by generating considerable distortions and inefficiency. In the private sector, corruption increases the cost of business through the price illicit payment themselves, the management cost of negotiating with officials, and the risk of breached agreements or detection. Although some claim corruption reduces costs by cutting red tape, the availability of bribes can also induce officials to contrive new rules and delays. Openly removing costly and lengthy regulations are better than covertly allowing them to be bypassed by using bribes. Where corruption inflates the cost of business, it also distorts the playing field, shielding firms with connections from competition and thereby sustaining inefficient firms.

Corruption also generates economic distortions in the public sector by diverting public investment into capital projects where bribes and kickbacks are more plentiful. Officials may increase the technical complexity of public sector projects to conceal or pave way for such dealings, thus further distorting investment. Corruption also lowers compliance with construction, environmental, or other regulations, reduces the quality of government services and infrastructure, and increases budgetary pressures on government.

While discussing the factors that facilitate corruption,

scholars seem to have combined the various elements of corruption under two main approaches: the principal-agent approach and the collective action approach. The principal-agent approach presupposes the imbalance nature of information with regards to an activity between a principal (the owner of job) and the agent (the client). A principal-agent problem exists when one party to a relationship (the principal) requires a service of another party (the agent) but the principal lacks the necessary information to monitor the agent’s performance in an effective manner. The “information asymmetry” that arises because the agent has more or better information than the principal creates a power imbalance between the two and makes it difficult for the principal to ensure the agent’s compliance (Booth, 2012). This approach has been widely used to understand corruption across geographies and sectors (e.g. the police, customs, procurement, service delivery etc) (Klitgaard, 1988; Rose-Ackerman, 1978).

According to this theory, conflict exists between principal on the one hand (who are typically assumed to embody the public interest) and agents on the other (who are assumed to have a preference for corrupt transactions insofar as the benefits of such transactions outweigh the costs). Corruption thus occurs when a principal is unable to monitor an agent effectively and the agent betrays the principal’s interest in the pursuit of his or her own self-interest (Persson et al., 2013). Thus, principal-agent theory sees corruption exclusively as an agent problem, with the principal unable to play an effective monitoring or oversight role, mostly as a result of a lack of information.

The collective-action approaches to corruption are still an emerging body of work, in both conceptual and empirical terms (DFID, 2015). From a collective-action perspective, all stakeholders – including rulers, bureaucrats and citizens alike – are self-maximizers, and the way they behave to maximize their interests is highly dependent on shared expectations about the behavior of others (Ostrom, 1998). The rewards and costs of corruption depend on how many other individuals in the same society are expected to be corrupt. If corruption is the expected behavior, individuals will opt to behave in corrupt ways because the costs of acting in a more principled manner far outweigh the benefits, at least at individual’s level (DFID, 2015). From a collective-action perspective, the key calculation about the costs and benefits of corruption derives from the cost of being the first to opt out of corruption in a given setting or context. The problem of corruption is thus rooted in the fact that, where corruption is pervasive, principals are also corrupt and they do not necessarily act in the interest of society as a whole but rather pursue particularistic interests

(Mungiu-Pippidi, 2011). In most Sub-Saharan African countries, the two scenarios painted are usually the case with corruption. In the first instance, civil servants that are meant to be at the heart of service delivery are the most corrupt and show the way for politicians. The public office holders that are meant to appraise their performance do not have information about how well they have performed the job. In most cases, they are usually “partners in crime” when it comes to corruption issues.

Essentially, some few individuals and groups will be available to campaign against the corruption and corrupt tendencies. This usually becomes a policy issue where government of the day is in agreement with the campaign against corruption hence establishing structures and institutions to fight the scourge. Most anti-corruption initiatives fail. This is because anti-corruption initiatives discussion and research centers too much on the “top and tail” of corruption – the causes and effects – and too little is said on the “heart” – the practical mechanisms for fighting it (Zuleta, 2008). Anti-corruption initiatives fail because of over-large ‘design-reality gaps’, that is, too great a mismatch between the expectation built into their design as compared to on-the-ground realities in the context of their deployment (Hecks, 2011). Successfully implemented initiatives find ways to minimize or close these gaps. However, corrupt tendencies seem to have become overwhelming in some countries thereby creating prosecution problem for the judiciary in those countries. In order to get out of the problem, some countries have adopted plea negotiation or plea bargain to relieve the system of the problem of investigation and prosecution.

Plea bargaining is a negotiated settlement of criminal matter. It is a form of short-circuiting the process of prosecution which can be used for small and big crimes (Fagbohun, 2015). It is also considered an agreement between an accused and a prosecutor (Atanda, 2015). Plea bargaining is a process of criminal justice system which has been in place since the 19<sup>th</sup> and 20<sup>th</sup> Centuries (Dervan, 2010). While its usage and application in some countries has been old, it is new in some other countries. The case for its greenness in these countries could be attributed to its rejection because it does not offer fair deal and retrogressive in nature. There has been series of cases for and against plea bargaining as an aspect of criminal justice system. Dervan (2010) distinguished between administrative theory of plea bargaining and shadow-of-trial theory of plea bargaining. According to Dervan, administrative theory of plea bargaining refers to the role of the prosecution in dictating the terms and conditions of the bargain and relegates the defendant to the position of an unwilling, passive participant whose

only power rests in the ability to accept or reject the government’s offer. This theory portrays prosecutors as administrative figures handing down punishment in the place of the courts. The shadow-of-trial theory on the other hand, argues that both prosecutors and defendants participate in the plea bargaining process and engage in a mutually beneficial contractual negotiation. In this model, each party forecasts the expected sentence after trial and the probability of acquittal. The parties then come to a resolution that contains some related proportional discount.

In another related development, Latona (2015) distinguished between Plea change and plea negotiation/bargain. According to Latona, plea change is an aspect of plea bargaining which refers to negotiated agreement from pleading guilty to pleading not guilty. In this case, an accused person that had already pleaded guilty may suddenly plead not guilty as a result of certain development in the evidence of the case. Whereas, plea negotiation/bargain is said to be the substitution for the prosecution removing certain offences where the accused agrees to divulge information or testifying on behalf of the prosecution in respect of other *participice criminales* (other parties involved in the crime) who are basically the fundamental members of the criminal organisation or enterprise. This is different from the types of plea bargaining alluded to by an association of lawyers known as Findlaw<sup>2</sup>. This group of lawyers differentiate three types of plea bargaining: charge bargaining, sentence bargaining and fact bargaining. In this case, charge bargaining is considered the most common form of plea bargaining where the defendant agrees to plead guilty to a lesser charge provided that greater charges will be dismissed. For example, an accused person may decide to plead to manslaughter rather than murder. The sentence bargaining is not the common type and it is more tightly controlled than charge bargaining. This is when a defendant agrees to plead guilty to the stated charge in return for a lighter sentence. Typically this must be reviewed by a judge, and many jurisdictions simply do not allow it. Fact bargaining is the least common form of plea bargaining and it occurs when a defendant agrees to stipulate to certain facts in order to prevent other facts from being introduced into evidence. Many courts do not allow it, and in general, most attorneys do not favour using fact bargains.

From the above, it is obvious that the applicability of plea bargaining should be in conformity with the objective reality of the environment that is applying it. There is no universal framework for its applicability. Therefore, it is

<sup>2</sup> Findlaw is an association of Lawyers in the United States of America.

meant to be reviewed and adopted based on the situation in different countries.

## **DEMOCRACY, CORRUPTION AND PLEA BARGAINING IN NIGERIA: AN OVERVIEW**

After a decade and a half years of authoritarianism in Nigeria, the inauguration of democracy in May 1999 became a watershed in the history of Nigeria because it somewhat elevated Nigeria a step higher on the ladder of democratic nations, particularly with the transition from one civilian rule to another in 2007. Prior to the administration of Obasanjo in 1999, the military misrule was marked by much suffering, infrastructural decay, and institutionalized corruption. Nepotism, bribery and patrimonialism became the order of the day. However, the hope of the common man for a just and an egalitarian society became rekindled with the institution of a democratic government in 1999. Nigeria's quest for democratization after years of military rule erased its pariah status earned under series of military regimes chief of which was the Sani Abacha junta. The administration of Olusegun Obasanjo, after its inauguration in 1999, made as its cardinal point the eradication of corruption from the social fabric of Nigeria. In its efforts to unravel the evils of corruption, the Olusegun Obasanjo's administration established structures and institutions that had the mandate to check corruption. Nevertheless, the legacy of corruption and lack of accountability bequeathed by many years of military rule continues to be an impediment to the goals of socio-economic development (Akanbi, 2004).

The fight against corruption in Nigeria has never been popularized as we have in the Fourth Republic with the inauguration of Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and other related offences Commission (ICPC) to complement the efforts of the existing institutions of anti-corruption in the country. The aim was to fight the deadly practice to a standstill for the country to progress and join other countries in the developed world. While the new institutions tried in no small measures to eradicate corruption in Nigeria through prosecution of defaulters, regardless of their status, the capability of these institutions, particularly the EFCC, to sustain this effort became doubtful with the new administration of Umar Musa Yar'Adua. This is because the criticism leveled against the institution and the subsequent harassment, intimidation and embarrassment of the former Chairman of the Commission became a pointer to the fact that the administration of Yar'Adua was not ready to pursue the

campaign against corruption with the vigour and rigour it required. More so the sudden introduction of plea bargaining to the criminal justice system in the country has also been criticized as an opportunity to create room for alleged corrupt officers to escape judgment.

However, it is important to understand critically the use of plea bargaining in any criminal justice system, either as a measure to decongest the prison or as a means of alleviating the risks and uncertainties of trials. The sudden introduction of the agreement into Nigeria's criminal justice system is an attempt by the power that is to provide soft landing for their cohorts and more importantly making nonsense of the anti-corruption crusade. This is because the technicalities involved in plea bargaining have been jeopardized in this process and this call for debate. The issue of what is stolen or embezzled and how this is resolved with the instrument of plea bargaining should be laid to bear for public discussion and knowledge.

It is obvious that application of plea bargaining in several other countries such as Canada, Malaysia, United States of America, Spain, South Africa, Zambia, India, Central African Republic and a host of others come with legal frameworks which originated from the constitutions of these countries and in most cases, it is being done away with. For instance, in India, plea bargaining has been rejected in several cases at the level of the country's Supreme Courts. The traditional view of the India Supreme Court was that the concept of plea bargaining or negotiations in criminal cases is strictly not permissible as it amounted to an informal inducement (Srimurugan, 2010). This is despite the introduction of provisions of plea bargaining in the Criminal Law in India. Also in Malaysia, it is reported that the legal system in Malaysia does not recognize the concept of plea bargaining. Nevertheless, there are indications of negotiations in the criminal procedures of the country. This has since been jettisoned as new legal provisions in the country did not allow the use of the concept in its criminal justice system. Even in the USA, where the practice had been in use since 18<sup>th</sup> Century, it is no longer fashionable to apply the concept of plea bargaining in the criminal proceedings in the country. In South Africa, several Committees were raised to investigate the issue of plea bargaining before it was entrenched in the Constitution of the country. This is not without modifications and procedure on the sentencing. Despite the fact that plea bargaining is recognized by the laws of South Africa, the negotiations between the prosecutor and the accused has no effect whatsoever on the decision of the trial judge in terms of sentencing (South African Law Commission, 2001).

The essence of the above instances is to showcase the

countenances of countries to the concept of plea bargaining as an instrument of criminal justice system in those countries. While it is being rejected in most of these countries out rightly, it is being modified in some other countries to ensure justice is carried and injustice is not permitted. The lesson in this for Nigeria is to highlight the need for Nigeria to ensure that the country is washed off its corruption garment before considering the use of plea bargaining as part of the criminal justice system.

In virtually all the institutions of the Nigerian state, corruption rears its ugly head as the hallmark of official business. From Abacha loot to Abdusalam profligacy, virtually all government agencies ranging from federal to the State and even at the local government levels, were involved in one corrupt practice or another (Akanbi, 2004). While we may not be able to venture into the causes of corruption in Nigeria, it may be discernible to do an overview of how these corrupt practices became entrenched into our socio-economic and political spheres. As observed by Munlinge and Hesetedi (2002: 122), "to explain the entrenchment of corruption in modern societies, an excursion into history is necessary". In the case of Nigeria and some other countries, colonial rule policies of divide and rule, coupled with concentration of power discouraged accountability and accentuated the propensity for corrupt practices in Nigeria. These were the structures inherited at independence without any attempt made at fundamental restructuring. In the post-colonial era, power remained centralized and institution of the state continues to serve as tool for personal aggrandizement. This was complicated by the expanded role of the state on the economy, which characterized the period of indigenization and nationalization. All these provided opportunity for bureaucratic and executive corruption (Basil, 2007).

Apparently, the lack of political will to combat the scourge led to the elevation of the menace to inglorious heights. The tendency for post-colonial African leaders to directly engage in looting of public fund, often stashed away in foreign banks did not help matters. High level official corruption thus prevented a credible and effective crusade against the menace. While these manifestations may be incontestable, corruption affects the over-all democratization process in the society. It became a leakage to the resources of the state that could have been channeled to infrastructural development and well being of the citizenry. This explains the endless array of decaying infrastructure and dilapidated social services being offered by the Nigerian state. Corruption in Nigeria is the failure of the state to perform or live up to its moral and political status. This is why some have argued that the state has become the sole agent of corruption in all

its political business and economic ramifications (Basil, 2007).

In the Fourth Republic, corruption has become a norm and practice of politics among the political class from the presidency to the councilors in the local governments. The furniture mentality, which the political class brought to governance, represents the highest form of corruption and the enslavement of the popular masses of this country (Dukor, 2003). The amount spent by successive administration as furniture allowance for new political office holders holds much to be desired.

The housing scam (branded Ikoyi Gate) in 2005 committed by the state and its actors is another dimension to the collective mentality of corruption. In a similar collective unconsciousness, "the financial institutions in Nigeria are pinnacles of corruption. Corruption of course cannot work in a country like Nigeria without them. The introduction and operation of community banks is the most sophisticated form of the exploitation of the underprivileged people of this country" (Ibid.: 24). Similarly, deregulation in the communication sector is the highest stage in the development of the communication industry whereby it becomes part and parcel of the invited mentality of corruption. The public was only aware of the huge amount paid by the network providers to obtain the license for their operation from the government. However, the poor operation of the networks have been blamed on the government as no infrastructure was provided for the take off of the communication operation despite the huge amount of money collected from the operators *ab initio*. Lack of ethical standards in government and business organizations in Nigeria is a big problem. The issue of ethics in public sector and in private life encompasses a broad range, including a stress on obedience to authority and on the necessity of putting moral judgment into practice. Thus, many officeholders in the society do not have clear conception of the ethical demands of their position. They think that official position is a license to steal public money with impunity. This might have been made possible by the poor reward system in the country. Nigeria's reward system is among the poorest in the world; it is one society where hard work is not properly rewarded but rogues are often glorified (Dike, 2006).

The problem of corruption in Nigeria is a political one, which torches on every facet of the democratic governance of the state. The issue of corruption in Nigeria is a manifestation of the lack of political will on the part of the sovereign and the failure of the state to maintain law and order. Hence, business corruption is a symptom of the failure to grapple with political corruption, which raises questions on the moral uprightness of the

state to exist or on the political will of the leadership to pilot the affairs of the state. It can be argued therefore, that where there is no political corruption, is where the state operates under a high moral law and upholds, protects and enforces the rule of law on itself and on its citizenry. However, the reverse is the case in Nigeria where there is high level of contract inflation, embezzlement and diversion of monies in banks, industries and other parastatals.

Again, it has also been argued that accountability of elected representatives to the people is the hallmark of any democratic administration (Mabogunje, 1999). However, democracy in Nigeria has been plunged into crisis by its failure to ensure accountability of the ruler to ruled as well as the inability of the state to make officials accountable for their actions and bring corrupt Public officials to justice. This is not to suggest that there are no institutions established to ensure accountability and checkmate corruption, but the best of these institutions has only earned the country the status of being rated the second and later third most corrupt country in the world and, among African states, slowing down the pace of the battle against corruption (The Guardian, February 12, 2005:12). The point being made here is that the phenomenon of corruption ravaging all levels and all arms of government poses serious threat toward the realization of the ideals of democracy.

Furthermore, the Independent National Electoral Commission (INEC) appears to be a compromised set up serving the interest of the ruling party (Mwalimu, 2001). The gross ineptitude of INEC manifests in the series of upturned election results by the election tribunals, open admittance of election rigging (not without the connivance of INEC). Worse still, some of these actions were allowed to continue in the face of open admittance by the parties involved. The above merely endangers democracy in Nigeria. Worthy of note is the point that there seem to be a declining faith by citizens in the capacity of democratic institutions, which have been manipulated by profiteering political elite thereby weakening the foundation and consolidation of democracy in the country. This is evidenced in the apathy displayed by Nigerians in the elections of 2007 and 2011.

### **PLEA BARGAINING AND THE POLITICS OF ANTI-CORRUPTION: AN INSIGHT INTO THE CRIMINAL JUSTICE SYSTEM IN NIGERIA**

Indeed corruption is one of the greatest challenges of the contemporary world. It undermines good governance, fundamentally distorts public policy, leads to the

misallocation of resources, harms the private sector and particularly hurts the poor (Basil, 2007). Many aspects of bribery and corruption, as observed by Basil, include accepting gratification, giving or accepting gratification through agent, fraudulent acquisition of property, offences committed through postal system, deliberate frustration of investigation, making false statement or returns of gratification by and through agents, bribery of public officers, using office or position for gratification, bribery transaction, false or misleading stamen and attempt (conspiracy) punishable as offences.

In the light of the above demented acts of corruption on polity and administration in Nigeria, government, if democracy must be sustained and maintained, should demonstrate the leadership and political will to combat and eradicate it in all sectors of government and society by improving governance and economic management, striving to create a climate that promotes transparency, accountability and integrity in public as well as private endeavours. Also, there is the need for a virile civil society and general empowerment of the citizenry. Such empowerment must include access to information about activities of government agencies.

Of utmost importance in the fight against corruption in Nigeria is the reform of the criminal justice system in the country. There are various institutions involved in the administration of justice in Nigeria, some of them directly and some indirectly. These institutions include the Judiciary, the police (including other law enforcement agencies), the ministry of justice, the prisons service and legal practitioners. These institutions perform key functions in the justice system. The judiciary performs its traditional role of trying cases brought before it and imposing punishment; the police and other enforcement agencies perform the role of investigation, prevention, arrest and pre-arraignment detention. The police, in addition, also perform the role of prosecutors in the lower courts. The ministry of justice performs the role of prosecutors and is also generally responsible for the administration of justice. The prison service is responsible for carrying out orders of the court in relation to sentences and detention of persons. The legal practitioners play the role of either prosecuting or defence counsel in criminal proceedings.

In Nigeria, criminal jurisdiction is vested in several courts. Almost all courts exercise both civil and criminal jurisdiction. Nigeria operates a federal system therefore there are both federal and state courts systems and both converge at the appellate courts level. In terms of hierarchy, at the lowest is the Magistrate court followed by the High Court, the Court of Appeal and the apex court, the Supreme Court.

It is important to note that there is no uniformity of laws governing criminal law and procedure in the country, although the criminal justice system in all the states of the federation are similar with some differences in the law applicable in the Northern and the Southern states. With respect to substantive law, the Criminal Code Act applies in the Southern states and the Penal Code Act applies in the Northern states. In procedural matters, the law applicable in the Southern states is the Criminal Procedure Act while the Criminal Procedure Code applies in the Northern states.

The present criminal justice system in Nigeria is derived from our historical connections with Britain. The criminal justice system is accusatory and based on the general principle that an accused is presumed innocent until proven guilty (Ojukwu and Briggs, 2005). Under the 1999 Constitution of the Federal Republic of Nigeria, "the power to institute criminal proceedings lies with the various States' Attorneys General and the Attorney General of the Federation". The police also have powers subject to the powers of the Attorneys General to institute and prosecute criminal cases. Indeed, the police prosecute the bulk, if not all, the criminal offences brought before courts of summary jurisdiction such as the Magistrate court.

At this juncture, it is pertinent to re-echo the point that in a bid to curb the menace of corruption, the government has at various times enacted various laws and established series of agencies to tackle corruption. Prior to the establishment of Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices and other Related Offences Commission (ICPC), the Nigerian Police Force has the responsibility of combating crimes in the country. They arrest and prosecute offenders (Akolokwu, 2006). There are copious provisions of the Criminal Code which deals with the issue of bribery and corruption. The Act makes it a felony for anybody in public office to ask for, receives or obtains any property or benefit for any service done in the course of his duty. Any public officer guilty of this is liable to seven years imprisonment (quoted from Olakulehin, nd). It is generally agreed that the criminal code has not been effective at curbing corruption due to a number of factors.

However, since the inauguration of the structures and institutions of anti-corruption in Nigeria in 2000 and 2003 respectively (that is, the ICPC and the EFCC), the power to prosecute criminal cases were granted to these bodies. This is particularly to empower the agencies to effectively carry out their functions and in relation to the need of the Nigerian state as at the time of inauguration. The ICPC was established in 2000 owing to the failure of the Police and the code of Conduct Bureau in curbing the menace

of corruption. The law at its inception was faced with a legal tussle; however, a Supreme Court ruling eventually allowed the ICPC Act to come into operation. The mandate of the commission include the receiving and investigation of reports of offences as provided by the law, to look into the work of government bodies such as ministries and parastatals and guide the implementation of actions that will help prevent and eliminate corruption. The EFCC on the other hand was established in 2003 as part of a national reform programme to address corruption and money laundering and in answer to the Financial Action Task Force (FATF), concern about Nigeria's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) laws. While this power has become a subject of controversy at different levels in the country, it is obvious that the agencies perform their function in collaboration with other government agencies with similar power of prosecution like the police and ministry of justice. The efforts of the EFCC in combating the financial crimes (particularly the internet scam and advance fee fraud) in the country are commendable. Also, the agency tried in no small measure to prosecute public officials alleged for corrupt practices, though not without criticisms. As a matter of fact, the doggedness with which the former Chairman of the anti-graft agency, Mallam Nuhu Ribadu, carried out this function was appreciated internationally that Nigeria was considered a promising democratic nation. However, the inauguration of the Umar Musa Yar'Adua in May 2007 seems to have made nonsense of the achievement of the EFCC so far. This is because, the administration melted down the enthusiasm which EFCC was known for and this is believed to be a ploy to shield high profile personality alleged for corrupt practices. This is despite the proclamation of the administration's zero tolerance for corruption.

It is no exaggeration that the subtle incursion of plea bargaining into the criminal justice system of Nigeria during the trial of some influential personalities in the law courts has provoked flurry of debates (Famoroti, 2009). Ordinarily, plea bargaining occurs mainly in criminal proceedings. It simply means the practice whereby an accused person standing a criminal trial pleads guilty to a charge(s) in return for a lesser sentence or dropping of some charges or both. Plea bargaining is said to be the most critical process in any criminal justice system. It is usually carried out with certain guidelines and conditions. It is just one part of the very lengthy criminal justice process. The criminal process begins with a crime-taking place and then continues with the formal investigation. After the investigation is concluded and there is cause to issue a warrant, the suspect is placed under arrest and

brought to the police station for processing (booking). Depending on the crime and the defendant, the suspect is either released from custody or held until the next phase of the process.

The next phase is the arraignment in which the defendant enters their plea of guilty or not guilty to the charge. During the arraignment, the defendant also is advised of the nature of the charge(s). The defendant is also advised that they have the right to have an attorney to represent them in the matter. Following the arraignment, the trial begins. Depending on the crime committed, the trial either occurs in front of a judge who makes the ruling on the case, or in front of the a jury who decides the fate of the case.

It is important to stress that plea bargaining is a relatively new concept in Nigeria's criminal justice system. No law has provided for it in Nigeria's criminal Law procedure (Fagbohun, 2015; Atanda and Oluborode, 2015). According to Ayoola ISC, "No law set out any modality for plea bargaining, it is not until recent times that it became a matter of public discussion" (quoted from Danlomi, [www.amanaonline.com/Articles/art\\_4522.html](http://www.amanaonline.com/Articles/art_4522.html), 2009). However, some commentators have made reference to a provision in the EFCC Act as authority for plea bargaining in the Nigerian laws. The section reads thus:

Subject to the provision of section 174 of the constitution of the Federal Republic of Nigeria 1999 which relates to the power of the Attorney General of the federation to institute, continue or discontinue criminal proceedings against any provision in any court of law, the commission may compound any offence punishable under the Act by accepting such sums of money as it thinks fit, not exceeding the amount of the maximum fine to which that person would be liable if he had been convicted of that offence (Balogun, 2007:17).

It is however contended that this section is not an authority for plea bargaining. In fact, the section has nothing to do with plea bargaining (Olakulehin, nd). Plea bargaining has to do with negotiation of sentence during a trial. It has its own actors. The prosecutors offering the consideration; the defense attorney (on behalf of the accused) accepting the consideration in exchange for pleading guilty and the judge who has the discretion of accepting the plea or not. In other words, the plea bargaining does not rest with the EFCC alone or both the EFCC and the accused. Where the judge refuses, then there is no case of plea bargaining. The section perhaps only allows the EFCC to weigh the option of recovering any amount which might have been squandered in lieu of prosecution or otherwise. This is not 'stricto sensus' a plea bargaining (Ibid.). Nevertheless, Latona (2015)

explained that Sections 75 and 76 of the Administration of Criminal Justice Law of 2011 in Lagos State provided for plea bargaining instrument in the administration of criminal cases. Apart from the laws of Lagos State, there is no other law that made provision for plea bargaining in Nigeria.

Having established that the law has not in any statute provided for this practice, we however admit the fact that it is an idea that was developed from judicial practice. The practice in reality is gaining grounds in the Nigeria criminal justice system because of its frequent adoption in notable cases in recent times. It has been employed in a number of cases including Tafa Balogun's case (Kawonise, 2008), Wunmi's case, Alamesiagha's case, Igbinedion's case and many more. While it is not our contention here that the adoption of plea bargaining is bad, it is important to stress that the adoption in the case of trial of corruption in Nigeria is itself corruption. This is because the agreement is required in other areas of trial of criminal cases where awaiting trial cases have filled the prisons system in the country. It should be pointed out that one of the problems confronting the prison system in Nigeria is the problem of prison congestion and plea bargaining would have been a good option to be introduced in order to decongest the said prison. However, this was not the approach of the state which had adopted plea bargain to set free corrupt public office holders. The fact remains that Nigeria's judicial system is imbalance as it favours the rich against the poor. In all the cases where the plea bargaining has been adopted, it is apparent that the agreement was entered into as a ploy to free the personality involved. Rather than making it the discretion of the courts (judge), it is usually seen as a political solution to safe the face of corrupt officials.

The first attempt of plea bargaining in the Nigerian criminal justice system was noticed during the trial of Salisu Buhari who was elected the Speaker of the House of representative during the 1999 general elections. Salisu Buhari won a seat to the House of Representatives and became a Speaker of the House using a forged certificate and with false age. Having being charged for perjury and forgery, Buhari pleaded guilty to the two count charges and was made to pay a fine of one thousand five hundred naira only and was set free. As if this was not enough, he was granted presidential pardon by the Olusegun Obasanjo's administration.

The other case of misapplication of plea bargaining in Nigeria was the Tafa Balogun's case, a former Inspector General of Police who was accused of embezzling over N17billion meant for the Police Force. Balogun's case was worse as the allegation became substantiated after investigation and it came at a time the Nigerian Police



force was under serious criticism for its inefficiency and ineffectiveness. Various reports conducted within the country, and outside Nigeria revealed that the Nigerian Police Force was the most corrupt institution of the state within Nigeria (See Global Corruption Reports, 2007; The Afikpo Report, 2005; World Bank Report on Nigerian Governance and Corruption, 2001). Part of the reason adduced for the corruption of this institution was that the Police was the least paid and that Officers and men of the force only get papers for their promotion and deployment. The emolument and entitlement to support the mobilization is not usually paid and at times, they are paid after one year of transfer or deployment. This exposed an average Nigerian Police to go to the road to mount road blocks in order to collect bribe from motorists along the highways. This has become the *trade mark* of the Nigerian Police force. Tafa Balogun was released after pleading guilty and was made to return part of the embezzled fund.

Again, the Alamiesiegha's case was an embarrassment to the country. After he had been charged for money laundering outside the country, and eighteen other charges, he was made to enter into plea bargaining which only made him to serve the term jail of two years instead of about fourteen years under the guise of concurrent running of jail term and to forfeit cash worth over one million US dollars found in his residence. The point being made here is that for such offences as those committed by Alamiesiegha, the law could have taken its full course in order to prevent or deter other potential public money looters.

Another beneficiary of the prosecutorial device imported from the leading common law societies into our criminal justice system was the ex-governor of Edo state, Lucky Igbinedion. A federal high Court in Enugu had on December 18, 2008 imposed a fine of N3.5m on Igbinedion, the son of a High Chief of Benin Kingdom, after he was found guilty of committing fraud while he was governor.

All these are not part of other fraudulent cases that the EFCC has prosecuted applying the plea bargaining formula. A particular case in point is the one involving Nigerian fraudsters Mr. Anajemba, Mrs. Amaka Anajemba, Mr. Emmanuel Nwude and Mr. Nzeribe Okoli who duped a Brazilian banker Mr. Nelson Sakaguchi about \$242 million in 2004. This was reported as one of the World's biggest fraud cases. The individuals pleaded guilty and were made to repay \$25.5million and got various jail sentences except Mr. Anajemba who had been deceased at this time.

Despite all these, issues of corruption has continued to trail the democratic experiment of Nigeria as no serious

efforts has been made after the Olusegun Obasanjo's administration in 2007 to absolutely fight corruption to standstill. It is imperative to point out that despite the existence of institutions of anti-corruption in Nigeria, the disease has not stopped to rear its ugly head in the country.

## CONCLUSION AND THE WAY FORWARD

This paper has attempted to examine the application of the concept of plea bargaining into the criminal justice system of Nigeria under a democratic regime as an anti-corruption crusade. In doing this, the paper has analyzed the various democratic theories as applicable to the various systems in the world. It has also explained the concept of corruption vis-à-vis the theories of corruption in the literature. This has been done by establishing a synergy between the concept of democracy, corruption and plea bargaining. The emphasis of the paper has been on the anti-corruption campaign of successive governments in the country since the inauguration of the Fourth Republic in 1999.

The Fourth Republic, just like the previous republic, had made some efforts to fight corruption but the introduction of plea bargain into Nigeria's Criminal Justice system merely confirms the position that even where governments publicizes various anti-corruption policies, most have at best trivialized the serious endeavour of fighting corruption. Plea bargain would do nothing but embolden corrupt public officials and guarantee the continuance of corrupt practices. Bearing in mind that corruption has been said to be a deviation from the standards that have been laid down. Where the laws says that anybody who is liable for an offence shall be sentenced to say seven years imprisonment, except in rare cases, such a culprit must be made to face the consequences of his action. This is the whole essence of the criminal justice system.

Therefore, with reference to plea bargaining, the mere fact that a person admits or confesses that he committed a crime should not affect his being punished for the crime in the absence of any defense as the case may be. After all, admission and confession are not new under our law. Plea bargaining is not more than admission and confession under the law of evidence except that the accused is offered lesser sentence.

Considering the damage that corruption has done to the socio fabric of Nigeria, this is not the time for plea bargaining. Once a looter is aware that he could be made to forfeit part of what he had embezzled, all he needs to do is to loot more than necessary in order to create space

for the percentage he would use for plea bargaining. Yet even when plea bargaining is to be considered, it is important that the *modus operandi* be designed and incorporated into the general criminal justice system rather than an open blanket as it is. The available cases of corruption where plea bargaining has been applied is infinitesimal compared to cases of corruption in the country. This suggests that several cases of corruption were not brought to limelight not to talk of prosecuting such cases. It is indeed a misnomer for a country like Nigeria and its corruption stand to apply plea bargaining. This only indicates the level of unseriousness that country exhibit among the comity of nations in its crusade against corruption.

Therefore, it is pertinent to stress that drastic action should be taken to nip the matter in the bud if corruption is to be forgotten in Nigeria. One of the ways forward, as suggested by Fagbohun is to allow civil society organisations (CSOs) in the prosecution procedures of corruption in the country. In this case, formidable registered CSOs should be empowered to collaborate with government agencies in charge of prosecution of criminal cases to establish and prosecute individuals found wanting in terms of corruption.

Secondly, there is the need for protection of individuals who have information about a public office holder found to be corrupt. Over the years, it has become covertly unreasonable for any law abiding citizen to make report of criminal tendencies to law enforcement agents and get adequate cover without being molested. Citizens are usually opened to harassment when they make available information about a criminal to law enforcement agent(s) in the country. Some have lost their lives in this regard without any form of consideration by the government of the day.

It is important for government to establish data base of citizens in the country. This should be done in the form of social security as we know it in the United States of America and other developed countries of the world.

Fourthly, anti-corruption institutions in the country should be strengthened and empowered to be independent. The situation where EFCC's power of prosecution was withdrawn and placed under the watch of the Ministry of Justice did not allow the agency to perform its duties as it used to be. It became an instrument of laughter for criminals who were hands in glove with the honorable Minister of Justice. This prevented the Commission to perform its duties without being manipulated by the Minister.

Lastly, there is the need to carry out reform of the laws of the land. The criminal justice procedure of Nigeria should be overhauled and strengthened to accommodate

provisions of the law that would deter potential thieves from occupying public office. And where they find themselves in public offices, they should be deterred by institutions and structures which are not subject to manipulations by any individual.

## Conflict of Interests

The author has not declared any conflict of interests.

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*Review*

# North Korea's nuclear program and the treaty on the non-proliferation of nuclear weapons: The controversy and its implications

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This study critically examines the trend in non-compliance of the NPT, its lack of effectiveness in deterrence and consistent behavior both among compliance and noncompliance states to identify what constitutes construes, and at times justifies the trend. That is, based on the established NPT norms, the study inquired to indicate what the decade's long diplomatic, military and media ramble constitutes in the reconstitution of global normative framework. The study shows both theoretically and empirically indefensible irrationality at the heart of the NPT-North Korea nuclear issue neither the selfish pursuit of national interest nor the avowal for global peace and security gives credence to. This holds more true to the NPT leading protagonist USA than the nuclear pariah state of North Korea. The central theme is based on by four major confounded propositions; these are the anachronistic nature of the NPT and IAEA, the irrationality of rational choice based behavior of actors, the growing potency of regional actors pragmatic strategies and North Korea's success to maneuver and, not least, outmaneuver of the effort of the regime and powerful member states resorting to eclectic strategies. Consequently, the NPT regime and the appeal for compliance have lost the moral power of commanding member states indicating grave epicenter that might be considered beyond the North Korean episode. Thus, the study corroborates with Nina Tannenwald's call for, the need to reconstitute the decadent normative regime of NPT, creating (making) nuclear taboo in essence; but, it departs from Tannenwald's circular argument recommending the problem as solution. It instead strongly argues that the North Korean example constitutes is that the normative framework of NPT's rightness, the power and rationality of rational choices and deterrence significantly perverted indicating the imperative for normative reconstitution of Cold War norms and replacement by new framework approximating current global reality and envisaging the horizon of future dynamics. Therefore, calls for rethinking beyond theoretical purviews materialist, rationalist and consequential conception pertaining to the nuclear issue. Methodologically, it is a meta-theory study employing interpretive design; source of data is exclusively based on desktop review of secondary data sources academic literature, statute, policy and regulatory documents of the NPT, IAEA, UNSC and member states, media and electronic dispatches as well as news outlets.

**Key words:** UNSC, NPT, IAEA, North Korea and USA.

## INTRODUCTION

The post-modern world has been suffering multi-dimensional changes and transformations affecting the nature of states, their population, and their relations;

hence, recasting the organization of global diplomacy, global and regional peace and security architecture. Yet, not everything has undergone changes. One such a case

that has continued from the Cold War zombie view of nuclear arms race is the violation of NPT. Despite its craving effort, as a global norm and institutional framework, the operation of the Non Proliferation regime is violated by the behavior of actors. Now a days, the North Korean state has occupied print and electronic media headlines, attention of the United Nations Security Council, the IAEA Board of Governors and the General Conference; academics, diplomats, global security and IAEA experts and negotiators; indeed, the security concern and anxiety of governments and peoples in and out of the Korean Peninsula, because, at face value, the North Korean state has continued compromising and at last violating the global norm established by the NPT. Indeed, it has withdrawn after it has become a weapon state.

Despite continued diplomatic efforts, annual military drills and showdowns, the NPT regime and the global community has not deterred North Korea from pursuing and materializing its nuclear ambitions. Many academics have made thorough thought about how did an oppressive state considered by the world having no democratic record to its name at all and illegitimate at home, isolated from the world, commanding a million man army and sustained to be a world nuclear pariah state. Here, volumes are written about the conditions allowing it to repeatedly violate NPT norm and undermining IAEA efforts and slammed ample UNSC resolutions.

Often explanations ranging from the regional and regime type based analyses, through the anarchic nature of the international system and multi-polar Post-Cold War world up to the unrepresentative nature of UNSC and domination big powers playing double standard norms are provided. These explanations offered a lot to our contemporary understanding of the North Korean nuclear problem. Not less did these studies make much focus on the empirical dimensions, leaving the impact of the case on the normative and philosophical assumptions of and the rationale for NPT unaddressed; there is a tendency to assume this part of the problem *a priori* and analyze incongruities. Provided the fast track of change and transformation the world has been undergoing the last two decades, the paradox behind the overall NPT's lack of success despite effort made by the international community and the act of states like North Korea are indicative of the need to consider the normative construction.

Two points are worth noting; one, had there not been a problem deserving investigation at the normative level, however anarchic the world state system may be, it is not

full chaotic enough to get one rouge state behave in accordance with acceptable global norms. Second, still there are instances of working systems within the existing global system. This study is informed by this paradoxical exceptionalism and critically examines how the hitherto developments have affected the normative and operational legitimacy of NPT. Therefore, the study is an attempt of examining the normative and empirical (does it have any longer) validity of the regime using the North Korean nuclear issue as vintage point.

The study pays no particular homage to any theory or ideological framework; because the author suspect part of the problem could be the theoretical and conceptual frames we understand the problem with. Hence, it is a meta-theory study based on secondary data; the design and epistemological paradigm of the study falls within using social constructivist or social constructivism as paradigm in order to reconstruct a new understanding out of hitherto held assumptions and data. Hence, it attempts to create new way of looking (meaning) the issue out of often seen but overlooked old facts.

### **Nuclear weapons and arms control: An overview**

The Second World War has marked the beginning of the nuclear age which chronicles the development of the nuclear weapons known as atomic bombs possessing enormous destructive potential, as both Hiroshima and Nagasaki has been bombed by the United States in August of 1945. It was a new weapon of unusual destructive power and qualitatively it was unlike any other weapons in history (Vadney, 1987:43). This has demonstrated not only the destructive power of atomic bombs, but also American superiority in the military field. America's superiority was broken later when the USSR detonated an atomic bomb of similar destructible power in 1949, followed by the UK in 1952, France in 1960 and China in 1964 (Nogee and Robert, 1992:4 & 301). The proliferation of nuclear weapons in both the West and the East block was the result of the then zombie view of nuclear arms race between these two rival blocks, as guided by the logic of Cold War politics. Thus, be it advertent or inadvertent, security dilemma and the threat of nuclear war remains to be the main concern of the international community in the late 1950s and early 1960s. This has demanded plausible international measure to stabilize the issue and it was for this reason that different negotiations in between the two super powers, along with their allies, have been taken place. This is true especially after the 1962 Cuban missile crisis,

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which brought the major powers to the brink of global thermonuclear war (Nicholson, 2002:141).

Since then, the USSR, now Russia and the United States have opened a series of negotiations aimed at limiting the threat posed by possible nuclear war. It was finally resulted to the conclusion of the NPT regime in 1968. According to Nicholson, it was when the superpower states have approached to the brink of nuclear war that they recognize the need for new modalities of communication thereby deter future crisis. In lieu of this, the arms control regime (the NPT) has come into being (Ibid).

### **Foundations of the NPT and rights and obligations of states parties**

The Treaty on the Non-proliferation of Nuclear Weapons was signed in July 1<sup>st</sup> 1968 and came into effect in 1970. It sought to control the spread and use of nuclear technology for the manufacture of nuclear weapons. This is clearly stipulated in the preamble of the treaty that reads:

*Considering the devastation that would be visited up on all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples . . . [That the treaty was concluded]*

It is cogent and bright to argue that the NPT, as an international regime, was concluded upon the will of different states with the idealist assumption of creating norms and rules binding upon all member states. The different articles enshrined in the treaty text are basic principles and norms that reflect the rights and obligations of states parties as binding for all. According to article I and II of the NPT document, the main objective of the treaty is to stop the further spread of nuclear weapons and to provide security for non-nuclear weapon states (NNWS), which have given up the nuclear option. This shows the obligation of nuclear weapon states (NWS) to refrain from giving control of those weapons to others and from transmitting information and nuclear technology for their manufactures to states that do not possess them. Besides signatories without nuclear weapons also agreed not to receive or manufacture them. According to article VI each of the parties to the treaty should undertake to pursue negotiations in good faith on effective measures relating to the eventual disarmament of nuclear weapons.

This shows the NPT is established with the objective of controlling nuclear weapons proliferation and arms control that ultimately aimed at reaching the disarmament of nuclear weapons globally, but without the necessary mechanism and the timeframe to carry out this process. This is an important limitation that this treaty has to fulfill

its role in the field of nuclear disarmament. However, it should be noted that the use of nuclear energy for civilian purpose is allowed for all states parties. This is in line with the provision of article IV (I) that stipulated any state party has the inalienable right to develop research, production and use of nuclear energy for peaceful purposes provided that it is subject to the safeguards and inspections of the IAEA in accordance to article III(I) of the treaty document. The rationale behind is to prevent diversion of nuclear energy from peaceful uses to nuclear weapons or other explosive devices. It is under such legal rights and obligations that 190 states have signed / and accede to the Treaty on Non-proliferation of Nuclear Weapons.

When it comes to practice the regime looks incapable of deterring non-compliance. North Korea's Nuclear ambition is a case in point. In line with this, Paul Joseph Watson has the following to say:

*In late 2002, North Korea carried out its threat to remove UN seals and dismantle monitoring cameras at a laboratory used to produce weapons-grade plutonium. In January 2003 the country withdrew from the Nuclear Non-Proliferation Treaty (NPT), which seeks to control the spread of nuclear technology. The country threatened countless times to utilize its nuclear arsenal, which is already vast according to many experts (Watson, 2003).*

The point to divulge at this juncture is the mismatch between the initial imperative for the institutionalization of the NPT regime which was based on realist *real-Politik* considerations and the normative structure meant for its enforcement which was idealist in nature. To elaborate this point, while the need for NPT regime was meant to garner states behavior towards compliance in the real world the institutional arrangement and scale of power vested on it appears to assume not the hurdles of real life experience but the idealist assumption of performance of treaty obligations in good faith. Thus, the diagnosis and prescription are mismatched and incongruent with the prognosis of NPT regime<sup>1</sup>.

<sup>1</sup>This genesis of NPT is a point to make early reflection. Nonetheless, an international instrument that emerged from the context of global balance of power struggle and informed by real *politik* considerations of the cold war from the outset missed the hurdles of its observance are to be hatched from the womb that bore it; that operational and technical issues like the what underlies and the how to determine *peaceful and civilian purpose* are not immune to real *politik* considerations and power calculus disavowed in favor of idealist utopia; that an instrument that envisioned nuclear free world in the horizon of the future, in the manner of the ancient philosopher who blindly spilled his stew gazing at the limitless space, left such a matter highly embedded in might to the rescue of either technical experts or idealist ethos. The discursive utility of global peace and security promoted by nuclear club members to its predicament may be taken for an indicator of the growing chasm between the ideological disavowal and pragmatic commitment they pursued; that is the regime could have long availed itself of the experience to depart itself from both hapless passivity against brute pragmatism and meaningless idealist verbatim; and in effect, to reorganize and transform it based on meta idealist and reality binary or even a mixture of both conceptions.

This reminds students of international relations the mystery behind the success of Henry Kissinger the architect of Cold War diplomacy and international relations; Kissinger responding to whether realist or idealist ideology guides his and in general the success of US diplomacy, he boldly disclosed the binary division has never been a consideration in the history of US diplomacy; but pragmatic political considerations required by the age, not the least, despite the avowal to and disavowal against one or the other ideological ternate, utilizing poetic mixture of both (Kissinger, 2001). Moreover, as discussed in details below, the regime seemed to have failed to foresee future emergent behaviors and interests of non-nuclear states contingent to the transformation of global security needs. The above point can be elucidated from the haphazard state behavior with regard to NPT with the transformation of global power interplay and a campaigning transformation of global security needs (from Collective security to the new global security paradigm) during the end of the Cold War era. These points are reflected in the legal mandates characterizing the International Atomic Energy Agency.

#### **Legal foundations of the international atomic energy agency**

The IAEA was set up by the unanimous resolution of the UN in 1957 to help nations develop energy for peaceful purposes (Baylis and Ranger, 1992:182). The three main pillars underpinning the IAEA's mission are safety and security, science and technology, and safeguards and verification of nuclear energies. Allied to this role, later after the conclusion of the NPT, is the administration of safeguards arrangements to provide assurance to the international community that individual countries are honoring their commitments under the NPT treaty. The IAEA has provisions to safeguard materials in civil reactors and facilities to verify the accuracy of documentation supplied to it. And hence, under the terms of the NPT document article III (ii), it has the right to monitor and inspect the nuclear reactor installations of the signatory states. The inspections are designed to verify compliances with the terms of the treaty under which the states pledged not to develop nuclear weapons as a by-product of civil-power program (Karp, 1992:88).

The IAEA, as an independent international organization related to the UN systems, is regulated by special arrangement. In terms of its statute, it reports annually to the UNGA and when appropriate, to the UNSC regarding non-compliance with the assumed nuclear use for civilian purpose. Hence, the effectiveness of the IAEA in its safeguards program is instrumental in the implementation of the NPT terms thereby check compliance.

The last point is worth reiterating. Given the anarchic nature of the international system and the complex task of safeguarding and verification of nuclear energies, the

mandate given to the IAEA is gigantic. Hence; its success-failure story depends on how it pays attention to balance the desired goodfaith and coercive diplomacy via the UNSC. In this regard the IAEA has good record of neither controlling club member behavior nor deterring new nuclear aspirant states from emerging into the international scene.

Therefore, the main discussion on North Korea's Nuclear Program in the following sections is presented in lieu of the above background as the unique regional and sub-regional contexts of the Korean Peninsula as well as the subjective conditions defining the interest and behavior of the North Korean state. Indeed, the usual US-Russia show down and bulling around the dynamics and tempo of proliferation of our time are the continued epicenters (global infrastructures of proliferation) from which new NPT crisis episodes emerge and are often embedded in. Thus, the subsequent discussion also takes note of this uncomfoting reality in explaining the security dilemma surrounding the NPT in general and North Korean nuclear program in particular.

#### **North Korea's nuclear program: Trends and the controversy**

The history of North Korea's nuclear weapons program dates back to the 1960's due to its security concerns in the region. i.e. in fear of the anxiety of strong alliance between Japan and South Korea along with the US, following the 1965 diplomatic relations between Japan and its rival South Korea (Pike, 2007:6). Under such perceived and probably actual threat North Korea attempts to attain nuclear weapons to become militarily self-reliant and secure in the region. It was also a period during which the DPRK government was committed itself to what is called 'all-fortressization', which was the beginning of the hyper militarized North Korea of today (ibid). Hence in the mid 1960's DPRK established a large scale atomic energy research complex in Yonghyon and under the cooperation agreement concluded between the USSR and the DPRK another nuclear research center was constructed near the small town of Yongbyon. Besides, DPRK has trained specialists from students who had studied in the Soviet Union of the time (ibid).

In the 1980s, focusing on practical uses of nuclear energy and the completion of a nuclear weapon development systems, North Korea began to operate facilities for uranium fabrication and conversion. It began construction of a 200 MWe nuclear reactor and reprocessing facilities in Taechon and Yongbyon respectively and conducted high-explosive detonation (Online News Hour may 2, 2005). Notwithstanding its ratification of the statutes of the IAEA in 1974 and withdrawal in 1994, North Korea did not accede to the Treaty on the Non-proliferation of Nuclear Weapons until 1985. Had it not been for the strong international

pressure exerted on it North Korean might keep on its truck record going ahead. Even under such circumstances it has long resisted to be abided by its safeguards agreement and suspected of having extracted enough plutonium from its research reactor built 90 km north of Pyongyang (The Washington Post, July 1990).

In addition, the Washington post reported that new satellite photographs showed the presence in Yongbyon of a structure which could possibly be used to separate plutonium from nuclear fuel (ibid). Here comes the need for the involvement of the IAEA to verify its intention. Accordingly, in February 1993, the agency, for the first time, officially requested a special inspection of two key nuclear waste sites, but North Korea refused the inspection and submitted its withdrawal from the constellation. Barry Buzan has it that: In March 1994 things reached crisis point when the IAEA declared North Korea to be in non-compliance with its NPT obligations, and North Korea withdrew from the IAEA. North Korea threatened war in response to sanctions, and the USA reinforced its military presence in South Korea (Buzan and Wæver, 2003).

This has resulted to a heightened tension with the US and other advocates of the NPT till mid of 1994, though it begun to ease after the conclusion of the 1994 US-North Korea Agreed Framework, which froze North Korea's plutonium based nuclear power program (Cirincone, 2002: 247). However, different reports about the clandestine nature of its uranium enrichment program and its further disagreement with the IAEA compounded with the eventual expulsion of the inspectors brought the phase to an end.

*An intervention by Jimmy Carter broke the move towards confrontation, and initiated the negotiations that led to the formation of the Korean Energy Development Organization (KEDO) and to a deal in which North Korea traded suspension of its nuclear program, and reopening to international inspection, in return for oil supplies, two light water reactors, and normal diplomatic relations with the United States (Buzan and Wæver, 2003).*

Here, the fundamental principle of treaty law, with the obvious proposition that states "treaties are binding upon parties to the treaties and must be performed in good faith" (Shaw, 2003:811) has been clearly disregarded and violated. Since North Korea's decision to withdraw from the treaty South Korea, US, Japan, Russia and China have involved through the so-called Six-Party Talks negotiations to bring North Korea back into full compliance with the IAEA safeguards agreement, however, the negotiations has failed until today to succeed in its efforts (Manning, 2006:3). Consequently, it kicked out the inspectors of the IAEA, the UN nuclear watch dog, and restarted the nuclear reactor that had been frozen under the 1994 agreed Framework. It was for this reason that the Board of Governors of the IAEA

has adopted a resolution on 6th January 2003 calling on North Korea to comply with its safeguards agreement and readmit the inspectors. The resolution also affirmed that unless it fully cooperates with the agency, the DPRK will be in further noncompliance with its safeguards agreement (IAEA Board of Governors resolution GOV/2003/3).

Despite this resolution, North Korea has officially announced its withdrawal from the NPT in its letter dated January 10, 2003 to the UNSC stating that its withdrawal "will come into force automatically and immediately". North Korea, addressing the UNSC and to the NPT states parties, stated that despite its withdrawal from the treaty that it has "no intension of making nuclear weapons" and its activities "will be confined only to power production and other peaceful purposes" (ibid). Controversially enough the letter also claims that its withdrawal is in a reaction to its inclusion in the so called "axis of evil" and being targeted by the United States preemptive strike policy. Following this announcement the IAEA Board of Governors had reported to the UNSC on 12 February 2003 requesting the Security Council's involvement to the non-compliance of North Korea (Report by the Director General of the IAEA-GOV/2003/4).

But before any official resolution or action of the UNSC, North Korea has replied that "any sanction imposed by the UNSC would be considered as a declaration of war". And again in 2005 for the first time North Korea has officially stated that it has possessed nuclear weapons (New York Times, Feb 10, 2005). And on July 5, 2006 it reportedly fired at least seven separate missiles with in its two rounds of missile tests. After three months, in October 9, 2006 the government, through its foreign minister issued an announcement that it has successfully conducted a nuclear test for the first time describing them as "successful and part of regular military drills to strengthen self-defense" insisting that it has the legal rights to do so (New York Times December 27,2006). Though declared after its withdrawal from the NPT, practically much of it has been done earlier, marking the weakness of the NPT to deter non-compliance. This has multiple implications on the legitimacy of the NPT and on the future ebb and flow involved in it, which is the focus of the subsequent part.

### **Implications on the ebb and flow of the nuclear crisis**

Treaties involve a contractual obligation for the parties concerned and hence create law for all parties agreeing to the terms of the treaty. The NPT for example, is an agreement based on the expression of enlightened self-interest of countries insisting that all parties to the agreement follow crucial non-proliferation rules, which are clearly stipulated in the treaty document. Thus, in principle the NPT has created norms, standards of conduct and rules, which are theoretically binding to all



members. Thus, the Treaty on the Non-proliferation of Nuclear Weapons is expected to create conducive atmosphere in which countries will get secured from the threat of nuclear wars by controlling the dangers of spreading of nuclear weapons. However, even though it is concluded under such assumption its norms and standards of conduct have gained less success in restricting the behavior of its members by enforcing its pillar principles to gain compliance with its norms and standards. North Korea, for example, signed the treaty in 1985 as a condition for the supply of nuclear power station by the USSR with the purpose of civilian use in accordance to article IV of the treaty document, but it failed to sign the safeguards agreement with the IAEA until 1992. There are other cases where safeguards agreements were adopted a few years later of the ratification of the IAEA statute by these states. This is partly indicative of states behavior to sign treaties only if it is consistent to their narrow national self-interest. Even after it became member of the IAEA, North Korea was not able to respect the safeguards agreement for verification and nothing has happened that jeopardizes its national interest other than the series of privileged negotiations by the United States and other powers.

In addition, the 1994 Agreed framework was designed to bring North Korea back into its full compliance with the IAEA in which the agency was entrusted to verify the implementation of this agreement. Yet, it has violated its safeguards agreement and resumed its nuclear development program expelling all inspectors of the agency out of the country<sup>2</sup>. This was reported to the UNSC via the Agency however it has continued on its path.

This was mainly because of the inability of the UNSC to perform its enforcement responsibilities under the charter (Report of the UN-Secretary General, May 9, 2002) and the lack of enforcement mechanism on the part of the NPT regime to deter non-compliance. Thus, the NPT is enforced in a technical sense, but without force as a regulatory regime among those countries that defies accepting compliance.

It is obvious fact that treaties are at the core of international law if properly agreed upon several sovereign states, and then its violation is regarded as violation of international law. It is a truism that international law lacks the police functions that are found in domestic legal systems; hence, it is a system that relies largely up on self-help when it comes to enforcement. Thus, it is cogent to argue that though treaties are the most important and reliable source of international law, they bear a close resemblance to

international contracts in a superficial manner with a nature of their own reflecting the character of the international system (Shaw, 2003: 89).

States act in their self-interest and break agreed upon treaties, if deemed required and at times such violations go unpunished. Here, the case is apparent in the case of North Korea's non-compliance and the incapability of the NPT regime. Under such international system Seitz (1996: 297) has made the right observation i.e.

*The NPT can't pull the disarmament cart or even the anti-proliferation cart it can't pull the foreign policy cart, the regional security cart or the international security cart. . . as a crippled donkey can't pull any kind of cart, no matter how hard it is bitten, perhaps it is time to retire the tired and over worked donkey.*

Nevertheless, to whatsoever extent tyrannical and inconsiderate to the safety and security of their people nuclear state leaders like Kim may be, but their acts do also constitute basic human security needs to fulfill, which they cannot do remaining for long pariah. The US and the UNSC agencies have failed to take note of these dimension of human security needs of states as organized human societies, which could have been put to the utility of NPT compliance many counts.

First, these considerations are better noted by the most threaten neighboring states than the leading protagonist of the NPT, the US and its northern allies in the UNSC that made to push desperate regimes to the fringe of collapse that in turn gave license to cling to proliferation as the last line of retreat. The cautious and sometimes narrow interest based swearing on the part of South Korea and China by refreshing tread ties in the middle of tense situation in the 2006 was not a novice effort to make the North behave properly than a de-escalation strategy of the potential harm of pushing a despairing regime (Economist, 2006).

Second, where these considerations seemed to be noted, more often than not negotiations were allowed to yield in to rewarding the act of nuclear blackmailing, here, the Kim regime is good at manipulating. For instance, a regional analyst noted the nuclear blackmailing behavior of the regime in the years preceding its public disclosure of being a nuclear weapon state to have contributed to the continuity of the crisis; and indicated that the neighboring states are far unwilling to accept this behavior than the US. Furthermore, the politics of nuclear blackmailing appeared to divide America's effort of forging strong coalition in the south. The economist magazine, of the month May, cover story depicting Kim with mushroom cloud correctly articulated the dilemma of regional actors as,

*However, this unanimity may not last. America would like to step up economic pressure on the North, but the wretched place is at starving-point already. Neither the*

<sup>2</sup>The inspectors have the obligation to report such violations to the IAEA Board of Governors, with a power to take action against violators like imposing economic sanctions or referring them to the UNSC for further harsher actions like the use of force, but in practice regardless of the reports nothing has detracted North Korea from its will and action.

*Chinese nor the South Korea would welcome a total collapse, or the refugees such a collapse would surely bring. There is, moreover, little agreement over the price worth paying to induce Mr. Kim to take the inspectors back and put his plutonium and uranium under lock and key. The Americans are probably less inclined than are the nearer neighbors to give in to nuclear blackmail in return for a quiet life. It is not even clear that Mr. Kim would be content for his blackmail to succeed (economist, 2003).*

Third, the regional and global implications were of far wider consequentiality than the fear induced in the immediate neighborhood. This was seen in the overlap and complications created by America's preparation to invade Iraq in the name of disarmament of WMDs as well as the coming of Pakistan to the spot light of proliferation (Economist, 2003).

Fourth, the double standard and ethical hypocrisy of the West involved in the calibration of nuclear weapon states differently in addition to denuding the moral superiority of the norm vital for the performance of international obligations in the good faith by defiant actors, but also sets other states under the NPT obligation transfixed by the spell of radical realism and promoting national interest: scavenge from the crisis. This is evident from President George Bush's preparation to get India's nuclear (though obtained out of the NPT framework) the blessing of the senate while it simultaneously was launching offensive pressure and coercive diplomacy against North Korea (Waltz, 2006).

The Bush government popular labeling of Iraq, Iran and North Korea—as “an axis of evil” and declaration that the United States “will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons” have raised the eyebrow of many critics. According to feature articles writer of the economist have critiqued President George Bush's attempt to put on 'brave face by attempting to make wars at multiple fronts. The author makes mention of North Korea's critical advance in delivery of fuel rods to the plutonium reactor at Pyongyang and subsequent expulsion of IAEA inspectors to have been conditioned by Washington's adventurous zeal waging war with Iraq in the name of disarming WMD. However, US policy did succeed neither in Iraq or escaped from embarrassment caused by resorting to soft strategies in North Korea after the Iraqi fiasco (Economist, 2003).

This behavior of US is important in understanding the challenges of NPT on three counts; first, despite the rhetoric for preemptive measures the sharp turn to diplomacy although pragmatic as it might seem was done unilaterally making a global issue the burden of USA. Second, it appeared inconsistent pursuit by a state's initiative that, as coming events have shown, hardly succeed to gain the support of its committed allies like South Korea and Japan full heartedly. Third, it gave North Korea the chance to easily shift gears only to buy time

and complicate matters worse.

The North Korean government has developed meticulous maneuvering of being bribed out of crisis it created as it did during the Clinton period in 1994 that nuclear blackmailing paid it well. This, along with other problems, in turn caused problem on US effort of forging strong alliance in the Peninsula. Even though the North during the time didn't succeed in putting enough wedges to cause wide differences among Russia, China and the US, nevertheless, US's own making has made it certainty in its southern alliance.

Accordingly, diplomatic analysts similarly warned against too much assuming on the side of US foreign policy assessment of the need of North Korea as depicted below:

*If serial nuclear blackmail were to succeed in North Korea, other countries can be expected to take note. And Mr. Kim will himself take note if, against all the odds, the distraction of North Korea lets Saddam Hussein wriggle free yet again. In more ways than seemed possible before Christmas, the credibility of Mr. Bush's foreign policy is now on the line (Ibid).*

Moreover, even its neighbors the south and China do not want the full collapse of the north due to the immense regional humanitarian repercussions which they do not afford to bear on them (Economist, 2003). The US initiative shared by firms from other Nuclear Supplier States (are 45 and USA is one) to trade in nuclear with India in 2005 was in transgression of the nuclear trade ban adopted in 1992 by the 45-member Nuclear Suppliers Group (NSG) (WMD, 2007:31). The message it sent to the world with regard to measures against North Korea by USA and other NSG is that it is for all purposes and utilities presumed hypocritical.

The analysis from US Defense Threat Reduction Agency has made the double standard response of the international media and the west as depicted in the text below.

*Despite concerns regarding the arms race in South Asia, official reactions to Indian missile tests have been sparse and coverage in the international media has been generally limited to factual reporting of the event. Reaction to the first attempted test of the Agni-III in July 2006 was somewhat different. At that time, the primary criticism was that India's test followed too closely after the far more provocative missile tests conducted by North Korea on July 5, 2006, and complicated international efforts to condemn and respond to that development (WMD, 2007:42)(underline added).*

The condemnation of India's act, boldly underline in the above text, was not based on genuine adherence to NPT principle rather than real international politics that it might not have appeared had it not been for the chromos of North Korea. Among other complex matters, flagrant acts of double standard measures could be taken as one reason for noncompliance of the initiatives that has been

reinforced by a series of UN Security Council Resolutions adopted in 2006 and early 2007. The similar fate faced by the highly propagated effectiveness of financial control adopted by UN Security Council Resolution 1540, in April 2004, which requires all states to implement financial, export, and other controls in order to curb illicit trafficking in WMD and related delivery systems (WMD, 2007:2) confounds the above assertion.

The effect in the Korean peninsula not only nuclear weapons but also hydroelectric dams have been water bombs inducing security concerns (Chira, 1986); such open inconsistency in the implementation of UNSC resolutions and the NPT regime have added sense of helplessness and haplessness to the region with regional ramifications. From the 'Greater East Asia' perspective the complex security dilemma involving China, the two Koreas and Japan, according to Barry et al. 'contained a strong regional thread that was independent of the Cold War' politics (Buzan and Wæver, 2003:132) that resurfaces along with ill-handled NPT strategies underlying the securitization of Japan and the region at large.

Viewed from the precarious power of deterrence in the Post-Cold War era, the inability of the regime to command the behavior of not only noncompliant nuclear states but also NSG members is indicative of the need for recapitulating the conception and use of deterrence as NPT tool. Still more is the continued act of the US in supporting the fear it avows to end. Watson precisely extorted it as, 'Every other month the media report on how the U.S. continues to transfer highly sensitive material to North Korea, all the while fear mongering about how it's not a matter of if but when a city gets nuked' (Watson, 2003:55).

One among others is the supply of Light Water Reactors (LWRs) by the US clinging to unscientific view that it couldn't be used to make nuclear bombs. But experts like Henry Sokolski, head of the Non-proliferation Policy Education Centre in Washington, timely warned against it.

*LWRs could be used to produce dozens of bombs' worth of weapons-grade plutonium in both North Korea and Iran. This is true of all LWRs- depressing fact U.S. policymakers have managed to block out. "These reactors are like all reactors, they have the potential to make weapons. So you might end up supplying the worst nuclear violator with the means to acquire the very weapons we're trying to prevent it acquiring (Sokoloski quoted in Watson, 2003:56).*

Sadly enough this has been confirmed by the best minds of nuclear science<sup>3</sup> in the US who cautioned against

<sup>3</sup>According to Paul Joseph Watson, these were 'the renowned nuclear scientists Dr. Victor Gilinsky, a former Member of the Nuclear Regulatory Commission during the Ford and Carter administrations and former head of the Physical Sciences Department at the RAND Corporation, and Dr. William R. Graham, a former Science Advisor to President Reagan and Deputy Administrator of NASA.'

providing LWRs saying "The light water reactors could produce about 500 kilograms of plutonium annually. They are so much larger than the facilities North Korea stopped building, they will actually produce more plutonium than the gas graphite plants they will replace" (Watson, 2003:57). Confounding Sokolski's testimony is the statement of state department in urging Russia to stop supplying LWRs to Iran for fear of developing the much dreaded bomb as 'United States has "consistently urged Russia to cease all [nuclear] cooperation with Iran, including its assistance to the light water reactor at Busher' (Watson, 2003:57).

The above instances constituted the lunacy of leading protagonist of the NPT regime. For deterrence to consistently fail what bigger reason there can be to abandon expectations and hopes of compliance to NPT by North Korea and other nuclear aspirant states. In this regard, the Chinese nonproliferation policy of no first use, minimum deterrence, peaceful resolution of and not coercive approach to nuclear crisis along with security assurance to nonnuclear weapons states and nuclear weapon states, nuclear disarmament, opposition to Ballistic Missile Defense (BMD) systems and respect for the right of peaceful development of energy remains incomparably consistent and stable position ever since the first day of testing its nuclear weapons to date (Qingguo, 2008:87-90). With regard to its firmness against use or threat of it has been clearly stipulated in its National Defense White Paper in 1998 that,

*From the first day it possessed nuclear weapons, China has solemnly declared its determination not to be the first to use such weapons at any time and in any circumstances, and later undertook unconditionally not to use or threaten to use nuclear weapons against nonnuclear weapon states or nuclear weapon-free zones (Qingguo, 2008:87-90).*

Despite certain diplomatic wrangles accompanying the ebbs of North Korean nuclear crisis, the Chinese policy appears to be NPT friendly and more favorable to than the inconsistent and Hippocratic policies of the leading protagonists to model after.

## DISCUSSION

The policy and practices of NPT in general and on the North Korean issue in particular is mired with multi-level problems associated with the constitutive and institutive nature of the NPT regime, IAEA and the UNSC system, global configuration of power, unique regional features of the Korean Peninsula and policies of major NWS actors. Not the least, on the nature of the North-Korean state and its regime type.

However, none of them provides us with reasonable explanation to why actors behave as they do in the name

of, at least in principle, compliance to the NPT, but end up in furthering in action or by setting the conditions for noncompliance. Or at best they end up in the least preferable of choices otherwise in passive resignation while their active roles are required. To set the discussion in perspective, let's situate it on the philosophical discourses surrounding nuclear weapons. Because at least tentatively we are to assume that the behaviors of actors, in one or another way, should fall within the analytical purview of contemporary thinking.

One of the principles of NPT is deterrence; state's like USA and its allies while consistently failing to deter the North Korean regime from its progress and at times in a way that furthers its progress pursue both the soft and hard ways. In the case of the US it went to the level of burgeoning its weaponization capabilities in place of the opposite as can be seen from the supply of LWRs to North Korea; yet, the same potential act by Russia to Iran set US alarm against it. One may attempt to explain the tautological trap venture desperately with power *politik*, national interests and related realist conceptions. This could apply to the double standard nature of behaviors, however, it does not hold to the rationalist assumptions (of making best or least harmful choices) this category of explanation is embedded in that could justify measures like the tightening of its diplomatic and embargo grips on North Korea a regime, which in turn does not meaningfully recoil in the face of the suffering of millions of its people; still more, what goals such behavior serve leave alone to get solid global alliance is either reluctantly seen or opposed by its best allies and an arch enemy of North Korea in the region, the South Korean and Japan?

The behavior of its allies in the region may be explained by resort to de-escalation from the worst possible scenario of nuclear attack and gradual hope of getting it to acceptable global norm by not provoking in to the opposite; though, unfortunately, the regime disappointed them committing itself against their expectations, nevertheless, its intransigency to pursue its nuclear program has involved an eclectic approach of subtle nuclear blackmailing, which rarely failed to be rewarded in lump sum, mediation and use of force. The humanitarian crisis of its people notwithstanding, its pariah behavior serves more than military, economic and political utilities. Even the least preferable or irrational choices of confronting a far higher power like the US and its allies with the threat of nuking their cities can be taken for North Korea's irrational rationality of forestalling the only state with the history of using nuclear bomb by desperately acting in the Cold War logic of mutually assured destruction; this seemed to have served its goal of keeping the North Korean sense of order out of chaos it causes. Apparently, such episodes often accompanied by aggressive non-military unilateral and multilateral coercions cause resistance to America's diplomatic bullying, unsettling concern of its undue influence and

anxiety from the potential of domestic intervention by actors far away from the region.

The unfavorable Russia-China response to most of US and UNSC initiatives on grounds of tangible and symbolic values and interests are cases for this point. In effect, in addition to creating enemies to the US and at least non-enemies to North Korea, it opens platforms for negotiation that, though not always, does not either significantly change or punish its rouge behavior or preclude it from benefiting from its weaknesses; because as mechanism of de-escalation and part of the unobserved promise of compliance to normalization. North Korea often gains the dividends of nuclear blackmailing which unless abandoning its program it would not have gained otherwise.

Inversely, to apply the same logic to America and its allies may not be totally erroneous. Considering the possibility of being nuked by a desperate regime inconsiderate of the pain of its own people, let alone arch enemies, it publicly vowed to destroy and considered by US and its allies as a system of pathological psychopaths, it might be taken for the rational for deterring ultimate distraction. However, this is based on theoretical assumptions and empirical grounds of potential use of nuclear weapons; on both counts the burden of proof and comparative guilt heavily points at the US than any other state.

On the theoretical level, the assumptions of the 'irrational use' by irresponsible actors and the military utility theories of nuclear weapons holding the 'lack of utility', 'non-rational' and the non-deterrence theories *citrus paribus* because the later three theoretical assumptions are both in this and overall context inappropriate to explain behavior of states not carry sound theoretical and normative values. To give clarity to the opposite variants pertinent to the discussion at hand, briefly discussing their corresponding major tenets is relevant in understanding the predicaments of NPT.

To begin from the extreme ethical and epistemological argument against NPT (non-governance) is the non-deterrence argument often predicated to the poetic verbatim of the philosopher Max Black 'there is no need for rules prohibiting cats from barking.' The assumption is that states are too rational enough to use the annihilating power of nuclear weapons and as the cats do not bark and should be told not, nuclear states do not need rules of deterrence to guide their behavior (Qingguo, 2008:87-90).

On the other side of the continuum is the 'lack of utility argument against deterrence that underscores nuclear weapons could be used, but are not rational choices for war is goal and target oriented; they argue that the indiscriminate nature, the material and bureaucratic problems of using strategic nuclear weapons in war to be against or short of the logic and purpose of war; hence, nuclear deterrence is not required for there are more

effective and rational choices than them that tells why many states do not use them (Ibid). However, both arguments are historically unfounded and theoretically flawed for they fail to explain experiences of use of neither nuclear weapons nor possessing them without use.

According to Tannenwald, the only way out for both is the 'non-rational' argument for acquisition of unusable weapons or/and non-rationality of failing to use usable nuclear weapons. In either way it contradicts the rationality assumption it claims to promote (Tannenwald, 2007:41). To set it in context, the US-North Korea tension and non-compliance of the NPT means the nuclear powers, the US and North Korea in particular are either collecting unusable weapons (used for non-national reasons) or are (non-nationally) keeping idle usable nuclear stockpiles that could have ended the whole problem. To take it a bit further than Tannenwald, it means the inconsistency of leading protagonist of the NPT and the non-compliance of North Korea are mere bluff about using threat of inefficient power and very efficient nuclear weapon for deterrence only. So, in this line of argument, we are to assume other reasons closing the slightest possibility of happening to non-rationality.

Tannenwald's critical observation is that, the rationalist perview "risks falling into the tautological trap of inferring lack of utility from the fact that the weapons were not used and then using that 'lack of utility' to explain non-use. This would be an example of 'revealed preferences,' but behavior ought not to be used to reveal preferences." At best, it means there is very narrow possibility of using it. Tannenwald argued that such considerations are only excluded to military utility consideration (which are not always wrong), but also political and normative issues involved (Tannenwald, 2007:42).

Nonetheless, if not by resorting to absolute world of irrationality, other than hypocrisy, the political moves and the normative disavowals of NPT major protagonist for the compliance of NPT are often brandished by transgressing it. So does the task of explaining the NPT regime from this vintage point of view. Hence, not the normative world peace but narrow interests not capable of galvanizing compliance of even allies to NPT objectives.

The inacceptability of risking a damage (subjective as it might be objective to immensity of nuclear weapons) in the eye of parties (as victim or perpetrator) constituting unique case of security dilemma is less fragile point of reflection to return. That is, the irrationality and military utility argument underpinning an assessment of imminent and present danger of strategic nuclear weapon attack.

Tragically, on both the irrationality argument that underscores the imperative for observance of NPT on account of risking nuclear attack by irrational actors and on accounts of the argument that nuclear weapons do have actual military utility, the accusation finger points to the United States. This accounts to the fact that USA is the only country in setting historical precedent for using

nuclear weapons; so does the potential to use it in action. According to Tannenwald, the US has always kept the chance of using strategic nuclear weapons and are considered for tactical utility even after Hiroshima and Nagasaki. They remind us that 'the military utility of nuclear weapons – to relieve the siege of the Marine garrison at KheSanh in early 1968 and Den Bien Fu fiasco [had it not been] aborted quickly in a public relations nightmare (Tannenwald, 2007:222).<sup>4</sup>

Even though no country is supposed to promote compliance to non-use at the slightest risk of endangering its society losing, the precarious position of the US on the above two counts and its declared chance of preemptive measure against North Korea could not make even its genuine commitments to be credible in the eye of the world; that, in effect, adds to the dominant tendency to compromise the normative framework of the NPT and the chance of envisioning rational decision making. On the other hand, making the inference that countries will not use nuclear weapons and have no utility from the fact that they have not used it yet except USA is illogical to govern behavior of states; hence, decision makers facing fear of nuclear attack are left with narrow possibility of making rational choices (Ibid).

Therefore, the normative weight of making a case for the observance of the NPT appears to be highly virulent and erratic hardly acceptable by actors anticipating an attack from a declared enemy. However, from the discussion of the North Korean case a crucial point to observe does apply not only at the empirical and practical level, but also at the normative construction of NPT. On account of such 'unresolved anomalies' in being able to deter a potential nuclear state as rational choice and the materialist nature of the 'lack of utility' and non-deterrence theories has made Nina Tannenwald to ponder on another far higher normative platform, namely the imperative for creating nuclear taboo (Tannenwald, 2007: 40-43). Although Tannenwald's proposition of turning nuclear weapon global an object of obscurity is so optimistic and deserved appreciation, nevertheless, it is proposing the problem which is not being able to make nuclear a taboo for a solution. Yet, this is indicative of the fact that the normative value of NPT has reached a dead end and the imperative to rethinking old values.

<sup>4</sup>Nina Tannenwald, by examining Vietnam War period documents and memoirs (of McNamara, In Retrospect, pp. 160–61, 275. Walt Rostow Papers, Tom Johnson Papers, LBJL. Memo to General Wheeler from Robert N. Ginsburgh, January 31, 1968, NSF, Walt Rostow Papers, Box 7, LBJL.125 Memo from Walt Rostow to President Johnson, February 3, 1968. NSF, Rostow, Box 7, LBJL. General Wheeler to General Westmoreland and Admiral Sharp (JCS 01154), February 1, 1968, NS Files, NSC Histories, "March 31st Speech, Volume 2," Box 47, LBJL.) strongly showed that the use of strategic nuclear weapons has been part of USA's military strategies long after Hiroshima. Perhaps, the US disavowal of the military utility argument in its police and exaggerated assessment of nuclear threat by irresponsible actors could be explained by its historical precedence and readiness to use as last resort.

## Conclusion

The NPT, as a corner stone for non-proliferation efforts has legitimized the possession of nuclear weapons by five powers while denying the capability altogether to every other states, at least until the hypothetical movement in history that the five NWS decide to go non-nuclear. It was under such "the five vs the rest" formula that the NPT has been signed by a large number of states. However, it has not succeeded in halting the spread of nuclear weapons and it has not served as a confidence building measure, which is contrary to its theoretical and legal foundations. This is mainly because states are not committed more for treaties than their own narrow national interests. This is contrary to the generally accepted rule of *pacta-sunt-servanda*. Yet, this is only the tip of the ice berg.

It is natural for states to pursue their national interest, as a result when a state considers international treaties as a challenge to attain its foreign policy objective, then it will attempt to undermine it in her best interest. This is clearly shown from North Korea's non-compliance and its withdrawal from the NPT, as the first country ever to withdraw. But paradoxically enough, North Korea has tried to justify that its action is not against the internationally agreed norms which are enshrined in the NPT document. This behavior is the discursive disavowal repeatedly overtly violated by complying and non-complying states. A norm equally manipulated and ridiculed by states claiming or masquerading superior moral ground that in turn progressively depreciated the normative and practical worth of according global norms. Of course, the discursive utility itself points to a point of optimism to ponder about; that provided new global norm representative of contemporary world reality and that envisioned the future is reconstituted, the world state system is not incapable of observing norms; that a norm that could effectively be used by states as not only as regulatory structure, but also as the cognitive framework to predict each other's behavior would bring the nuclear security dilemma of states in to the vanishing landscape of rational choice.

The nuclear issue in general and the NPT and the North Korean unsettling conflict in particular shows both theoretically and empirically indefensible irrationality at the heart the normative framework of the NPT. For many academics, the NPT-North Korea nuclear issue has become hard to make sense neither from the selfish pursuit of national interest nor the avowal for global peace and security or to give credence to moral claims. In light of the weight of global responsibility the US assigns to itself and the responsibility thereof, this holds more true to the NPT major protagonist USA than the nuclear pariah state of North Korea. The inconsistency, bullying, manipulation, wars of aggression, giving into nuclear blackmail and even nihilistic supply of SWRs to

North Korea have reduced the legitimacy of the NPT regime. This is true basically along with the moral decadence of its alleged global mission of furthering the frontiers of freedom, justice and global peace and security.

Also, from this the following premature hypothesis can be made; that norms highly propagated for moral superiority and global vitality by a violating big power runs the risk of subjecting it to the ridicule of aggrieved lesser powers; even those who might have the will to compliance may not be able to resist the temptation of violating it; moreso when there is an imagined or actual symbolic or tangible gain with it; or the possibility of reducing damage. This should not mislead one to assume a rational choice, as per the norm of the NPT, for it is rather its negation that constitutes one feature contemporary normative crisis. In short, the central theme can be set in to four major propositions not easy to refute in the face of contemporary state of affairs.

First, the anachronistic nature of the NPT and IAEA assumptions and constellations tailored to Cold War has rigidified the regime and made it a snake sealed in its dry skin; not adaptive to realities of the constant flux of Post-Cold War world. Hence, states are tempted to tend to try cognitive structures that may serve their interest best masquerading compliance to acceptable global norms. This underlies the gradually mutation and pervasion of declared commitments and well intentioned strategies in to the affirmation of their negations

Second, the legitimacy and binding power of the NPT is further denuded as much by the interplay of emergent regional peace and security dynamics and international real politics as the NPT leading protagonist, relevant to mention are, for instance, the inconsistency, double standard and irrationality, verging Orwellian double think, of NPT proponent states like the US; the latter and its allies behaving contrary to universal common sense and rational choice, contributed to the intransigency of the North Korean state.

Third, and the pragmatic and de-escalation oriented role of far and near regional actors of the Korean peninsula at the unilateral, bilateral and multilateral platforms have stabilizing effect as well as reduced the moral legitimacy of the regime; this owes explanation to the unpleasant fact that even the most affected states like South Korea do not always buy the practical commitment and fall under the dictate of NPT norms. Inversely, let alone states well placed in global diplomacy, even isolated nuclear pariah states like North Korea are not devoid of helping hands in their dark hours (the case in point is China and Russia); even threatened foes like South Korea and Japan may recoil to passivity calculating risk reduction in favor of most dreaded enemy.

Fourth, consequently, North Korea's maneuver and, not least, outmaneuver of the effort of the regime and powerful member states resorting from escalatory

measures to nuclear blackmailing, via de-escalation to negotiation or escalation is rendered pragmatic with all its odd.

In effect, the NPT regime, and the appeal for compliance has lost the moral power of commanding member states indicating grave epicenter that might be considered beyond the North Korean episode. Lastly, the study corroborates with Nina Tannenwald's (2007) call for, the need to reconstitute the decadent normative regime of NPT by, creating (making) nuclear taboo; and it strongly argues that the North Korean example constitutes is that the normative framework of NPT's rightness, the power and rationality of deterrence significantly perverted indicating reconstitution by new framework approximating current global reality.

### Conflict of Interests

The author has not declared any conflict of interests.

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*Full Length Research Paper*

# Climate change and feminist environmentalism in the Niger Delta, Nigeria

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**Feminist environmentalist debate explores possible linkages between women and environmental issues such as inequality. One of the most pressing global problem at the centre of this debate is climate change vulnerability. As the Intergovernmental Panel on Climate Change (IPCC) creates global policy awareness on the realities of climate change vulnerability, women in the poor coastal regions of the periphery societies such as the Niger Delta, Nigeria, prone to environmental degradation seem to be missing out. This subject matter has been of immense policy concern. The increase in recent decades of environmental disasters, deleterious effects of oil resource exploitation by the Multinational Corporations (MNCs), pollution, gas flaring, acid rain, sea level rise, ozone layer depletion, global warming and related pressures, provide the need to explore feminist environmental challenges. As all such problems manifest with divergent climate related implications, the most fundamental challenge they pose to women seem less talked about. Niger Delta women who are largely bread winners in most rural households are at risk as their subsistence relies heavily on the natural environment such as farming, fishing, petty trading, gathering of periwinkles, oysters, crayfish etc. To explore this dynamic, the study deployed a desk review of relevant secondary data to examine possible linkages between feminist environmentalism and climate change mitigation. Findings suggest that climate change, mitigation has been minimal. The paper made some policy recommendations.**

**Key words:** Environmental security, climate change, women, development, Niger Delta

## INTRODUCTION

The 1990s have often been dubbed “The Decade of the Environment.” Certainly the Earth Summit held in Rio de Janeiro in June 1992 brought the countries of the world together to address such issues as biodiversity, global warming, acid rain, pollution, deforestation and desertification, species endangerment, preservation of wilderness, and energy consumption to international attention

(Warren, 1996). Included among the various seminars and conferences-the global forum that constituted satellite meetings to the earth summit was a special seminar, “Ecofeminism: Gender, Development and the Environment,” hosted by the University of Rio de Janeiro. This satellite seminar explicitly focused on ecological feminism: It made visible crucial and often overlooked

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environmental concerns (Warren, 1996). Despite the proliferation of diverse scholarship in the field of climate change over the past two decades, quite a number of rural women in the poor and volatile coastal areas such as the Niger Delta region of Nigeria are left out in the agenda of environmental developmentalism. In recent decades, Niger Delta women who are among the vulnerable groups are experiencing the cost of climate change and environmental insecurity as the natural yields from healthy ecosystems such as food crops and fishes are in decline (Amadi, 2013).

The critical roles of the Niger Delta women have been amply explored (Onoge, 2002). There are gender socially assigned tasks and obligations in all societies. It is the women's task to provide for the upkeep of the family in the Niger Delta (Onoge, 2002; Emuedo and Emuedo, 2014). Women in upland areas engage in farming of food crops such as cassava, yam, maize, sweet potato, and in the past, cocoyam, while women in the riverine areas engage in fish and gather sea foods; periwinkles, oysters, snails, shrimps, and crayfish. Women are thus, —food producers, procurers and preparers (Okon, 2002; Emuedo and Emuedo, 2014). However, servile poverty, coupled with huge rise in women-headed households (Uchendu, 1995), and environmental degradation put women under undue pressure. Women are forced increasingly to play active financial role in their families and are becoming wage earners (Sudarkasa, 2005; Emuedo and Emuedo, 2014). As such, beyond the food needs of the family, women produce or gather more for sale to augment family income.

A number of studies have demonstrated environmental relapse in connection with Niger Delta women (Uchendu, 1995; Onoge, 2002; Okon, 2002; Amadi, 2013). Also some studies have attempted empirical or theoretical extrapolation of environmental feminism in climate change contexts as well as its implications (Onoge, 2002, UNDP, 2006; Amadi, 2013; Rocheleau et al., 2013).

Conversely, a key policy contribution of this literature, namely; the integration of women into global climate change dialogue, is undervalued. Development studies argue that the neglect of women results in a narrow conception of climate change vulnerability and does not account for the changing realities of global development policy discourse. Indeed, emphasis has been shifting in the literature from an exclusive focus on global climate change to a micro analysis of the concept to encompass human security (Mathews, 1989; UNDP, 1994; Klare, 1996). Nevertheless, it has been argued that this new focus often, as well, neglects the dynamics of women in the poor societies in its analysis (Amadi, 2013).

This paper argues that while climate change studies have taken different dimensions since the 1990s following the IPCC reports, policy framings on feminist environmentalism among the coastal areas have been elusive. The debate advanced in this literature argues from feminist environmental perspective and posits that major

causes of women's marginalization are the asymmetrical environmental resource consumption largely attributable to capitalist exploitation.

The paper posits that failing to understand the role of women in global climate change policies will always perpetuate women's vulnerability in climate change discourse, results ecological injustice and more so, runs counter to global clamor for environmental sustainability and gender transformation. The paper is divided into four sections which include; the methodology and theoretical framework, the history of the study area, a review of relevant literature, results and discussions, conclusion and policy recommendations.

## THEORETICAL FRAMEWORK AND METHODOLOGY

The primary reason for the construction of a new approach to women and climate change studies centers on the fact that the analytic frameworks that have traditionally been employed to explain women and their vulnerability have simply been superficial when addressing environmental threats that take divergent forms outside existing cultural barriers. Such anthropogenic and natural environmental problems require novel and broader scholarly conceptualization within global climate change dialogue. Since both climate change and women (gender) are interrelated both should be mutually reinforcing in environmental and development discourse. This study provides a systemic exploration of the nexus between climate change and feminist environmentalism. It is a desk review which examines relevant theoretical and empirical data. It goes beyond these to advance the feminist environmental theoretical framework and assumptions to interrogate climate change and gender transformation. The feminist environmental debate argues that there is need for the removal of environmental obstacles and domination which undermine women's equality.

Many ecological feminist thinkers (Ruether, 1975; Griffin, 1978; Merchant, 1980, 1990; Gray 1981; King, 1981, 1983, 1989a; Plumwood 1986, 1991; Salleh 1984; Warren 1987, 1988, 1990; Warren, 1996; Rocheleau et al., 2013) have argued that, ultimately, historical and causal links between the dominations of women and of nature are located in conceptual structures of domination and in the way women and nature have been conceptualized, particularly in the Western intellectual tradition.

What unites the multiple branches of feminist environmentalism today is a belief in the fundamental connection between the oppression/domination of women/minorities and the oppression/domination of nonhuman nature (Urbanik, 2010). In essence, feminist environmentalists argue that one cannot eliminate human domination of other humans (e.g., sexism) without working to dismantle all forms of domination, including human domination of

the natural world.

For our purpose it is enough to argue that anthropogenic choices of men which have deleterious effects result environmental changes that pose threats to women known to be vulnerable. Feminist environmentalists posit that only when such environmental threats and insecurity triggers are addressed, women could assert some level of transformation in environmental security contexts. According to Ruether (1975);

*Women must see that there can be no liberation for them and no solution to the ecological crisis within a society whose fundamental model of relationships continues to be one of domination. They must unite the demands of the women's movement with those of the ecological movement to envision a radical reshaping of the basic socioeconomic relations and the underlying values of this (modern industrial) society (p.204).*

We have chosen this framework to understand the existential realities of the Niger Delta women in environmental contexts and for global policy discourse among the coastal areas and the wider periphery societies of the global South. Issues such as feminist environmentalism are important to developmental researchers and policy makers seeking for more equitable and sustainable resource use and possible gender mainstreaming in climate change vulnerability and mitigation.

### History of study area

The Niger Delta is located in the Atlantic Coast of southern Nigeria where River Niger divides into numerous tributaries. It is the second largest delta in the world with a coastline spanning about 450 kilometers terminating at the Imo River entrance (Uyigue and Agho, 2007). The region spans over 20,000 square kilometers and it has been described as the largest wetland in Africa and among the three largest in the world. About 2,370 square kilometres of the Niger Delta area consists of rivers, creeks and estuaries and while stagnant swamp covers about 8600 square kilometres (Uyigue and Agho, 2007). The Niger Delta has areas of ecological zones such as Mangrove Forest and Coastal Vegetation, Freshwater Swamp Forest, Lowland Rain Forest, Derived Savannah, Montane Region.

The States are mainly made up of upland and riverine communities (except a few such as; Imo, Abia and parts of Ondo) which provide important terrain to explore climate change dynamics. Specifically oil exploitation and exploration by multinational oil companies take place in these states and provide need for in-depth extrapolation of feminist environmentalism. The riverine area, with a land surface between 2 and 5 metres above sea level, covers about 40 per cent of each state, while drier

uplands occupy the remainder. Most water channels in the freshwater zone are bordered by natural levees that provide the basis for settlements and agriculture. The upland area varies in height from 10 to 45 metres above mean sea level (msl), but the majority is below 30 metres above sea level. Its surface is interspersed by small ridges and shallow swamp basins, as well as by gently sloping terraces intersected by deep valleys that carry water intermittently (UNEP, 2011).

Surveys carried out in the course of developing the Niger Delta Master Plan (2005) shows that there are more males (54%) than females (46%) in the Niger Delta Region. Similarly, there are overwhelmingly more male (93%) heads of households than females (7%). However in most households women are the bread winners involved in direct mode of subsistence of the family. The Niger Delta Master Plan (2005) demonstrates that the traditional economic activities of the communities fall into two main categories: Land based type on the drier parts at the northern end of the Delta, which includes farming, fishing, collecting and processing palm fruits, as well as hunting. Water based type of economy at the southern parts of the Delta including fishing and trading, with a less diversified economy.

The history of environmental degradation and climate change implications dates around 1956 following the discovery of oil in commercial quantities in Oloibiri a community in Bayelsa State. Till date, women are confronted with a series of environmental hazards negatively affecting their daily subsistence which we seek to examine in this study.

The climate of the Niger Delta Region varies from the hot equatorial forest type in the southern lowlands to the humid tropical in the northern highlands and the cool montane type in the Obudu plateau area (Niger Delta Master Plan, 2005).

The wet season is relatively long, lasting between seven and eight months of the year, from the months of March to October. In the northern and north-western parts of the Niger Delta Region, the rains may be delayed by as much as four weeks, thereby extending the dry season which, in recent times, tends to last some four to five months. (Niger Delta Master Plan, 2005). There is usually a short break around August, otherwise termed the "August break". The dry season begins in late November and extends to February or early March, a period of approximately three months (Niger Delta Master Plan, 2005).

During the dry season, the northeast trade wind blowing over the Sahara Desert extends its dehydrating influence progressively towards the equator, reaching the southern coast of Nigeria in late December or early January. The period is known as the "Harmattan", which is more noticeable in some years than others. Mean annual rainfall ranges from over 4,000mm in the coastal towns of Bonny and Brass in Rivers and Bayelsa States respectively, and decreases inland to 3,000mm in the

mid-delta around Ahoada, Yenagoa and Warri in Rivers, Bayelsa and Delta States, respectively; and slightly less than 2,400mm in the northern parts of the region such as Imo and Abia States. In the north western portions including Edo and Ondo States, annual rainfall ranges from 1,500 2,000mm (Niger Delta Master Plan, 2005).

Temperatures are generally high in the region and fairly constant throughout the year. Average monthly maximum and minimum temperatures vary from 28oc to 33oc and 21oc to 23oc, respectively, increasing northward and westward. The warmest months are February, March and early April in most parts of the Niger Delta Region. The coolest months are June through to September during the peak of the wet season (Niger Delta Master Plan, 2005). There are nine states that made up the Niger Delta namely; Abia, Akwa Ibom, Bayelsa, Cross Rivers, Delta, Edo, Imo, Rivers, Ondo,

The choice of the Niger Delta women is informed by gender inequality, ecological injustice and the paradox of oil wealth and massive poverty as well as need for transformation of women. The concerns raised are necessary for any adequate environmental policy.

## LITERATURE REVIEW

### Some conceptual issues: Feminist environmentalism and climate change

#### *Feminist environmentalism*

Divergent connections between feminism and the environment, have generated different, sometimes competing, theoretical positions in all areas of feminist and environmental scholarship (Warren, 1996). The conceptual explorations suggest that the linkages between them could be complex considering the divergent uses the concepts could be subjected to. Harding (1986) argues that gender inequities are important to understand possible connections between feminism and environmentalism.

For instance the literature on the importance of gender mainstreaming in environmental and poverty eradication policies have been recognized in a wide range of global agreements and forums, including chapter 24 of Agenda 21 (United Nations Conference on Environment and Development, 1992; World Summit on Sustainable Development, 2002; the Beijing Platform for Action, 1995; the World Conference on Human Rights, 1993; the International Conference on Population and Development, 1994; the World Summit for Social Development, 1995; the Millennium Declaration, 2000; the Rio + 20 summit, 2012; UNEP, 2006).

Feminist environmentalists such as Agarwal (1992), Rocheleau et al., 2013, argue that women in poor rural societies such as India are victims of environmental degradation in quite gender specific terms. Similarly

Amadi (2013) demonstrates such predicaments in the volatile Niger Delta region. Warren (1996) recounts that the historical and empirical links suggest that social scientific data on women and the environment are relevant to the theoretical undertakings in many areas of philosophy. She argues that in ethics, for example, that the data on women and nature raises issues of anthropocentric and androcentric bias. She wonders whether mainstream normative ethical theories can generate an environmental ethic which is not male biased.

In epistemology, data on the "indigenous technical knowledge" suggests that women who globally constitute the main agricultural production force (e.g., at least 80 percent of the farmers in Africa are women) are underprivileged which raises issues about women's "epistemic privilege" about farming and forestry (Warren, 1996).

In a recent study, Emuedo and Emuedo (2014) demonstrate how vulnerable and poor groups in the Niger Delta such as women are prone to environmental hazards. They observe that poorer people are easily susceptible to changes in the environment, mostly because social, political and economic exclusion means they almost always have fewer choices about where they live. They bear the brunt of natural hazards, biodiversity loss and the depletion of forests, pollution (air, water and soil), and the negative impacts of industrial activities, as they impact on their potential for food security. Akpofure (2008) identifies salient environmental problems arising from oil spill and its hazards including air, water and soil pollution.

Warren (1996) reports that on a more personal and everyday level, some grassroots women's groups have explicitly stated that our first environment is our bodies, calling for a more integrative approach to health, environment, and family planning in development, welfare and environment programmes.

Socialist feminist such as Fraser (1987) explores the political needs and services in social welfare programs in the United States. The historical and theoretical links show that within the social sciences, women and the environment are two key relevant and interrelated subject matters.

Harding (1986) identifies five elements of feminist critique of science namely; inequity of participation and power in science as usual; abuse and misuse of science on and about women; assumptions of value-free objectivity and universality in science; use of culturally embedded, gendered metaphors in scientific explanation and interpretation; and development of alternative ways of knowing and ways of learning based on everyday life, women's experience, and explicit statement of values.

Ecofeminism and other feminist critiques of environmental management paradigms have raised questions of gender, power, and paradigms of economic development (Merchant, 1981; Hynes, 1992; Seager, 1990; Shiva, 1988).

Warren (1996) re-echoes that recent literature on gendered resource rights in development studies has tended to focus on ownership and use rights in land, trees, water, wildlife, and other rural resources. Similarly, Shiva (1988) explores the importance of gender in natural resource extraction and development.

A review of the literature suggests that feminist environmentalism has in recent times become an influential pedagogical tool to explore climate change vulnerability and constraints it poses to women. This is explored from natural and anthropogenic dimensions and includes challenges such as inequitable and deleterious natural resource exploitation. However, since the industrial revolution, anthropogenic greenhouse gas emissions are pushing this effect farther than any time in recorded history (IPCC, 2001).

### ***Climate change***

The term climate change conveys some urgency which demands scholarly attention. Traditional perspectives envision that climate change is caused by two key factors namely; anthropogenic and natural. The Intergovernmental Panel on Climate Change (IPCC), a body set up in 1988 by the World Meteorological Organization (WMO) and the United Nations Environmental Program to provide authoritative information about climate change phenomenon, produced enough evidence in their first report in 1990 to show that climate change is a reality.

IPCC (2007) Fourth Assessment Report (AR4) gave the most current and acceptable definition of climate change, which states that; "climate change is a change in the state of the climate that can be identified (e.g., by using statistical tests) by changes in the mean and /or the variability of its properties, and that persists for an extended period typically decades or longer.

Vulnerability to climate change is the degree to which geophysical, biological and socioeconomic system are susceptible to, and unable to cope with, adverse impacts of climate change, including climate variability and extremes (IPCC, 2007).

The Intergovernmental Panel on Climate Change (IPCC) describes climate change as any change overtime, whether due to natural variability or as a result of intense human activities (IPCC, 1990).

The climate system is a complex, interactive system consisting of the atmosphere, land surface, snow and ice, oceans and other bodies of water, and living things. The atmospheric component of the climate system most obviously characterizes climate; climate is often defined as 'average weather' (Awosika et al., 1992; Le Treut et al., 2007).

As a relatively new concept, climate change is widely used to describe the complexity of interrelated threats associated with changes in the climate, such as genocide, out migration, and the displacement of populations.

However, as the degree of environmental threats and degradation which affects women increases, climate change policy discourse requires corresponding urgent attention.

Climate change has resulted in a number of insecurity challenges. The most pressing of these challenges is environmental as human life largely depends on the environment. One of such vulnerabilities is flood disaster such as the 2012 experience in the region. Floods are known to cause substantial damage through degradation of soil, destruction of crops, property, human life and livestock (Amadi, 2013). This underscores a number of environmental insecurity as Chalecki (2002) reintegrates environmental security challenges into the climate change debate.

Climate change induced environmental insecurity is now a common place in the Niger Delta, hence the volatility of the region. Environmental security (ecological security or a myriad of other terms) reflects the ability of a nation or a society to withstand environmental asset scarcity, environmental risks or adverse changes, or environment-related tensions or conflicts (Amadi and Ogonor, 2015)

For instance, the environmental challenges in Bonny Island in the Niger Delta results from the continual exploration and exploitation of natural resources which has gradually degraded the ecosystem primarily from economic motives (Lekwort et al., 2014).

There are several environmental problems from the activities of the oil multinational corporations leading to discharge of increased volume of toxic effluents which have exacerbated the incidence of pollution and contamination of both surface and ground water by harmful gas, contamination of soil by oil spills and leaks, increased deforestation as well as environmental degradation stemming from gas flaring (UNEP, 2011; Lekwort et al., 2014). Climate change also has the potential for internal displacement such as flooding (Amadi and Ogonor 2015), decline in food crop production (Amadi, 2013).

Climate is usually described in terms of the mean and variability of temperature, precipitation and wind over a period of time, ranging from months to millions of years (the classical period is 30 years). The climate system evolves in time under the influence of its own internal dynamics and due to changes in external factors that affect climate (called 'forcings'). External forces include natural phenomena such as volcanic eruptions and solar variations, as well as human-induced changes in atmospheric composition (Le Treut et al., 2007). Solar radiation powers the climate system. There are three fundamental ways to change the radiation balance of the Earth: 1) by changing the incoming solar radiation (e.g., by changes in Earth's orbit or in the Sun itself); 2) by changing the fraction of solar radiation that is reflected (called albedo'; e.g., by changes in cloud cover, atmospheric particles or vegetation); and 3) by altering

the longwave radiation from Earth back towards space (e.g., by changing greenhouse gas concentrations) (Le Treut et al., 2007).

Climate, in turn, responds directly to such changes, as well as indirectly, through a variety of feedback mechanisms. In the Niger Delta, the pervasive livelihood insecurity precipitated by the oil and gas extraction on the entire Niger Delta environment remains a major challenge to initiating and attaining a livelihood system across the region (Emuedo and Emuedo, 2014).

Debates to conceptualize climate change in gender contexts have been varied and complex (Tuana, 2013). Women and environment raise some concerns about human anthropogenic choices arguing on possible reconciliation of men's activities with women's environmental transformation (Waren, 1996).

Since the IPCC First Assessment Report in 1990 realities of climate change vulnerability have more than ever become relevant as increasing evidence of anthropogenic influences on climate change has been preponderant both in the global North and South (Amadi, 2013). The poor societies cannot afford to withstand environmental pressure as they are mostly affected (Homer Dixon, 1991).

UNEP (2006) recounts that the Multilateral Environmental Agreements on Climate Change, Biodiversity, and Desertification, and also the Commission on Sustainable Development, have had limited success in integrating and implementing gender equity as a cross-cutting issue. While the United Nations Convention to Combat Desertification in those countries experiencing serious drought and/or desertification, particularly in Africa is uniquely inclusive of a gender approach.

The gender perspective of Agenda 21 has been unevenly upheld throughout most of the convention texts and implementation mechanisms. This was further reflected in the 2012 UN Rio +20 report, *The Future We Want*. A renewed momentum towards gender mainstreaming is needed for all of these decision-making bodies.

Correspondingly, the IPCC has made increasingly more definitive statements about human impacts on climate (IPCC, 2007). This takes a number of dimensions and effects as humans interact with the environment. Growing debates have stimulated a wide variety of climate change research. The results of most of these researches have refined but not significantly redirected the main scientific conclusions from the sequence of IPCC assessments. This thinking is held by the proponents of revisionism "the dominant theoretical tradition" in development studies theory.

UNDP (1994) emphasizes "redefining security from a human dimension" with emphasis on the legitimate concerns of ordinary people who sought security in their daily lives and posits that for many of such people, security symbolized protection from the threat of diseases, hunger, unemployment, crime, social conflict, political

repression and environmental hazards. While most engagement with women and climate change have been selective and limited, women make up a large number of poor people in communities that are highly dependent on local natural resources for their livelihood and are disproportionately vulnerable to and affected by climate change. Women's limited access to resources and decision-making processes increases their vulnerability to climate change.

Additionally, women in rural areas in developing countries have greater responsibility for household water supply, energy for cooking and heating, and for food security. Thus, women are negatively affected by drought, uncertain rainfall and deforestation. Again, because of their roles, unequal access to resources and limited mobility, women in many contexts are disproportionately affected by natural disasters, such as floods, fires and coastal erosion.

In 1992, 100 Heads of states met in Rio de Janeiro, Brazil, and signed the United Nation Framework Convention on climate change, Convention on Biological Diversity, Rio Declaration and the forest principles (UN, 1998). The 1997 Kyoto Protocol complements the framework convention. The main thrust of the protocol is that 37 industrial countries are expected to reduce greenhouse gases emissions by 5% by 2012 (UN, 1998). It has three implementation mechanisms:

1. The clean development mechanism
2. Joint implementation
3. Emissions trading (UN, 1998).

Central challenge at global climate change mitigation has been capitalist environmental exploitation including environmental commodification which results deleterious environmental use as the poor societies suffer the deleterious effects.

In 2007, IPCC released a report of the work of 2,500 scientists from more than 130 countries, noting that human activity most likely has been the primary cause of global warming since 1950 (IPCC, 2007). They reported that this resulted from years of accumulated greenhouse gases emission; of the gases carbon dioxide (CO<sub>2</sub>) is principal culprit. Greenhouse gases are able to absorb and radiate heat. Some are naturally occurring (like CO<sub>2</sub>, water vapor, methane, ozone and nitrous oxide, etc), others emanate from industrial processes (such as hydrofluorocarbons, perfluorocarbons, chlorofluorocarbon, etc (IPCC, 2007).

The problem of climate change raises difficult issues of science, environmental security and economic implications. While the economic and social issues have been analyzed in great deal, the question of environment and security has received comparatively little attention. Today, the Niger Delta environment has changed and continues to change rapidly. Oil and gas activities have infringed on the people and their environment, leading to

the opening up of previously pristine ecosystems. This has resulted in alteration of habitats, biodiversity loss, deforestation and pollution (UNEP, 2011; Amadi and Ogonor, 2015). While natural hazards are responsible for some impacts on the environment, oil activities have no doubt aggravated the situation. A World Bank report (1990) observed that the oil industry in the Niger Delta has both an urban and a rural presence, as oil wells are located throughout the rural areas. However more critical are the increasing degradation of the environment.

Additionally, it is advocated that women should be involved in the decision-making process at all levels, in all spheres including the economic and environmental realm (UNEP, 2006). Women, have been traditionally excluded from these positions and even in key positions in environmental issues (UNEP, 2006). Conversely, feminists point to the need for women to be involved beyond the local. While both of these are laudable and arguably necessary, anti-revisionists uphold an inadvertent risk that gender will be essentialized and that the present hierarchy of the sexes will remain entrenched (Romaniuk, 2009).

The nexus of climate change and environmental security among the Niger Delta women has remained a non-policy issue. This does not provide the much anticipated environmental transformation and climate change mitigation and adaptation strategies as gender inequality has remained a key issue in gender studies in the Niger Delta. The theory on women transformation in relation to climate change from whatever conceptualization requires more policy drive beyond the understanding that women are most vulnerable. Importantly, existing literature has not provided a comprehensive nexus between Niger Delta women and climate change mitigation strategies since the emergence in 1956 of commercial crude oil exploration by Western multinational corporations and more importantly, the return to democratic rule in 1999 in Nigeria, the post 2012 Niger Delta flooding and increasing environmental concern, repeated incidence of gas flaring and oil spill and essentially greater population of Niger Delta women are peasants who subsist from tilling the soil (Amadi, 2013).

The conceptual explorations reveal that despite occasional major paradigm shifts, the majority of theoretical insights on feminist environmentalism tend to emerge incrementally as a result of repeated failed attempts to accelerate feminist transformation. Therefore, because almost every new advance is based on the research and understanding that has gone before, the theoretical and empirical evaluation of climate change seems not to have transformed the superficial understanding of the importance of women in climate change discourse. This theory lag is important to researchers and policy makers who seek to unravel the importance of women in climate change mitigation issues.

## RESULTS AND DISCUSSION

As argued, feminist environmental policy has been minimal in development discourse in the Niger Delta region like most periphery societies where women are marginalized in policy discourse. A number of environmental issues are found to be central in feminist environmentalism.

Results provide theoretical evidence that point to vulnerability of climate change. Akinro et al. (2008) show that increasing ocean temperature cause thermal expansion of the oceans and in combination with melt water from land based ice, this is causing sea level rise. They contend that sea level rose during the 20<sup>th</sup> century by 0.17m. By 2100, sea level is expected to rise between 0.18 and 0.59m.

The Intergovernmental Panel on Climate Change has linked the rise in sea level to climate change. Between 1960 and 1970, a mean sea level rise of 0.462m was recorded along the Nigerian coastal water (IPCC, 1990). The inundation arising from the rise in sea level will increase problems of floods, intrusion of sea-water into fresh water sources and ecosystems, destroying such stabilizing systems as mangroves, and affecting agriculture, fisheries and general livelihoods. Coastal vegetation, especially the mangroves, have been lost to coastal erosion.

According to the report of the UNFCCC (2001), a number of environmental challenges accompany climate change as follows;

- a) The global surface temperature has increased over the 20th century by at least 0.60C.
- b) Satellite data show that snow cover has decreased by about 10% since the 1960-attributable to the melting effect of temperature increases.
- c) Glacial ice in the polar region is melting leading sea level rise.
- d) Global average sea level has risen and ocean heat content increased. Tide gauge data show that global average sea level rise between 0.1 and 0.2 meters during the 20th century.
- e) Moisture concern -too much and little elsewhere. The changes in the timing of rainfall and run-off could complicate efforts to ensure clean water for growing populations especially in the developing world.
- f) Warming temperature could aid spreading vector-borne diseases like malaria. World Health Organization estimates that in 2006 alone, more than 150,000 people died as a result of direct and indirect climate change impacts.
- g) While food productivity is projected to rise in the temperate region where now barren cold lands would warm enough to bear crops, crop yields in the tropic are likely to drop. Meanwhile tropical lands are homes to hundreds of millions of subsistence farmers and poor

populations.

h) It is projected that climate change between now and 2050 may cause the extinction of as many as 37% of all species (UNFCCC, 2001).

Results show that issues of feminist environmentalism, climate change mitigation and adaptation into development planning have been superficial in gender contexts especially in the periphery societies such as Niger Delta. Being mostly uneducated and poor, women rely on diverse forms of survival strategies with agriculture accounting for their main source of income and about 90% of family food needs (Emuedo and Emuedo, 2014).

Indeed, in both rural and urban areas, the vast majority of the poor have individual household and community survival strategies that include myriad activities and a number of other mechanisms for coping in times of crisis (Emuedo and Emuedo, 2014).

Findings from UNEP reports suggest that oil exploration, production and processing represent prime sources of exposure to petroleum hydrocarbons. This has been a central source of insecurity to Niger Delta women. Hydrocarbon pollution of soil can occur in several ways, from natural seepage of hydrocarbons in areas where petroleum is found in shallow reservoirs, to accidental spillage of crude oil on the ground (UNEP, 2011).

UNEP (2011) further shows that oil spills can affect wildlife, both aquatic and terrestrial, in many ways. The severity of damage will depend on the type(s) of hydrocarbon involved, the quantity spilled, the temperature at the time of the incident, and the season....A number of studies have provided similar results (Opukri and Ibaba, 2008; Kadafa, 2012; Amadi, 2013; Emedo and Emedo, 2014).

Uyigue and Agho (2007) observe that the most important environmental problem facing the Niger Delta is coastal erosion. Although the World Bank has rated coastal erosion as needing moderate attention in the region, it is the most important impact of sea level rise in the region and should be given high priority attention.

Zabbey (2011) and Amadi (2013) predicted some farming and fisheries challenges the Delta people experience due to sea level rise and soaring flooding. Settlements in the coastal region have been uprooted by coastal erosion. In some places, especially in Forcados, some oil wells have been lost to the ocean due to erosion (Uyigue and Agho, 2007; Amadi, 2013).

The UNFCCC (1994) posits that climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods. While environmental security as discussed encompasses a wide range of anthropogenic and natural occurrences that pose threat to the natural environment. Subsequent conventions have built on these challenges such as the

UNFCCC (1999). The 2010 Cancún agreements state that future global warming should be limited to below 2.0 °C (3.6 °F) relative to the pre-industrial level (King et al., 2011).

Despite the global conventions there have been incidences of sea level rise in the region, coastal erosion and flooding which submerges houses by overflown river banks resulting displacement and turbidity of the farmlands and negative effects on migrant fisherman (Amadi, 2013). In the 2012 flood disaster, three persons were reported to have lost their lives with over 400,000 persons displaced in 220 communities. The Head of Public Relations of NEMA, revealed that 35,126 internally Displaced Persons (IDPs) were registered in six affected local government areas of Bayelsa State (Amadi, 2013).

Similarly, Ibeanu (1998) observes that environmental pressure results in the displacement of people, who normally are a very visible group, conspicuous in their isolation and appalling material conditions, tends to be concealed by the Nigerian state. He contends that the reason for their neglect is because governments have a penchant for downplaying the magnitude of population displacement generally, and internal population displacement in particular. In few cases where they reluctantly admit the existence of displaced people, they tend to announce low numbers, make pretenses of providing assistance, and quickly claim the successful resettlement affected people (Ibeanu, 1998).

UNEP (2011) shows that in Ogoni (an ethnic nationality in Rivers state) remote sensing revealed the rapid proliferation in the past two years of artisanal refining, whereby crude oil is distilled in makeshift facilities.

Environmental degradation has given rise to massive poverty. UNDP (2006) describes the region as suffering from administrative neglect, crumbling social infrastructure and services, high unemployment, social deprivation, abject poverty, filth and squalor, and endemic conflict. The majority of the people of the Niger Delta do not have adequate access to clean water or health-care. Their poverty, in contrast with the wealth generated by oil, has become one of the world's starkest and most disturbing examples of the "resource curse" (Amadi and Alapiki, 2014).

Environmental pollution has gradually eaten into the environment because of series of oil exploration and exploitation, other related gas activities etc, have corroded the air quality, water and land. (Lekwot et al., 2014). They further observe that there is a considerable amount of dredging and filling of the water ways, siltation, erosion, spills which have led to acidification of water bodies, discharge of huge amounts of production water containing significant quantities of hydrocarbons, leaks from old corroded and poorly maintained pipelines, oil in gas flares.

There are also abandoned offshore rigs, refinery effluent and toxic sludge which has in turn damaged forests and agricultural land (Lekwot et al., 2014). While

gas flaring has technically been illegal in Nigeria since 1984, the government sometimes grants exemptions to oil companies, and fines for flaring are criticized as being too light to act as a deterrent. . Nigeria flares 17.2 billion<sup>3</sup> m of natural gas per year in conjunction with the exploration of crude oil in the Niger Delta (Global Gas Flaring Reduction, 2002).

According to GGFR (2002), this high level of gas flaring is equal to approximately one quarter of the current power consumption of the African continent (GGFR, 2002). Currently 56.6 million m<sup>3</sup> of associated gas is flared every day in Nigeria (Gerth and Labaton 2004). Nigeria has the world's highest level of gas flaring, and it flares 16 percent of the world's total associated gas (GGFR. 2002). Due to a lack of utilized infrastructure, approximately 76 percent of associated gas is flared in Nigeria, compared 8 percent in Alberta, Canada (Africa News Service, 2003; Watts, 2001).

A 2012 report by IRIN a humanitarian news and analysis organization, shows that in the Niger Delta, where most of the flaring takes places, residents living near gas flares complain of respiratory problems, skin rashes and eye irritations, as well as damage to agriculture due to acid rain. They are also forced to live with constant noise, heat and light that can lead to sleep deprivation which can degenerate into systemic insomnia. Since flaring involves carbon dioxide and sulphur outputs, in the longer term the heart and lungs can be affected leading to bronchitis, silicosis, sulphur poisoning of the blood, and cardiac complications (IRIN, 2012).

Problems of the rural women further manifests in the poor confidence in government on environmental laws and policies. The federal government rarely considers rural women and feminist environmental challenges in their policy decisions especially in relation to issues such as climate change. Further investigation should be directed at the assessment of women and climate change vulnerability by adopting effective mitigation strategies such as rural women climate change alliance and awareness which are participatory models. This essentially means that government and policy makers should expedite action to meet the needs of rural Niger Delta women in this regard as flooding of low-lying areas in the Niger Delta region has been observed.

## Conclusion

What we have attempted to do here is to advocate for novel policy discourse on feminist environmentalism to mitigate climate change vulnerability. Poor policy discourse in this direction vitiates the status of women and intensifies their vulnerability to climate change and disempowerment from their mode of subsistence. Existing policy documents such as the Niger Delta Master Plan did not meaningfully prioritize feminist environmentalism. No singular policy document till data has provided

plausible policy statements on Niger Delta women's environmental emancipation. At the post 2012 flooding, a number of studies argued for more environmentally friendly policies to advance the cause of the volatile region (Amadi, 2013). Policy framing in this direction has been minimal.

At the global level, the Millennium Development Goals (MDGs) cannot be achieved in isolation. It is not possible to achieve environmental sustainability (Goal 7) while poverty (Goal 1) and inequities between men and women (Goal 3) continue to exist (UNEP, 2006).

To date, many efforts to mainstream gender have been limited to minimalist and short-term technical interventions that have failed to challenge inequitable power structures. Gender disparities remain among the deepest and most pervasive of all inequalities. Key stakeholders in crude oil exploitation in the Niger delta such as the Western multinational oil corporations should be made to adopt green strategies in oil extraction.

The present Gender Plan of Action could be broadened and refocused to prioritize issues of feminist environmentalism; however, to mainstream gender comprehensively requires bottom top approach through rural women network and alliances on climate change and women's vulnerability. Thus, in implementing the Gender Plan of Action, pro -environmental specialized agencies such as UNEP should be instrumental to support and provide more radical strategies for climate change mitigation.

Gender continues to be "one of the world's strongest markers for disadvantage" and reducing inequality would be instrumental in making progress towards achieving the Millennium Development Goals (UNDP, 2005; UNEP, 2006). Such inequalities span all sectors and are equally pervasive in the environmental sector.

Feminist environmental awareness should be created and implemented both at the global and sub global levels .At country levels, salient indicators should be developed to measure the level of compliance to environmental feminist model in natural resource and environmental consumption to check oil spill, pollution and similar deleterious environmental effects which affects women.

Importantly, gender-environment experts and civil society organizations (CSOs) should be deployed in the rural areas to integrate and enlighten the poor women into the global agenda for ecological justice and equity as integral components of sustainable development.

## Conflict of Interests

The authors have not declared any conflict of interests.

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A world map in shades of blue and black, with the African continent highlighted in a darker blue. The map is centered on the African continent.

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