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## EXAMINATION OF ENVIRONMENTAL INFRACTION AND REGULATORY MECHANISMS IN NIGERIA

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### **Abstract**

*The union between human beings and the environment is one inseparable subject of study. Man cannot exist without an environment, and in fact a conducive one. Most of the activities (industrial and agricultural activities) have adverse effects on the quality and life span of the environment, instead, a continuation in those activities that harm the environment and a rise in the development of these activities. It is in this wise that regulations of environmental activities became as necessary as the activities sought to be regulated. The article make an attempt to x-ray the various regulatory mechanisms which impact on these activities in order to balance the conflicting interest of man's existence and environmental effects, in view of the Nigerian society. The article examined the efficacy of regulatory mechanisms, existing legal framework, challenges associated with enforcement of environmental laws and others. The article concluded that the adoption of effective sustainable reforms will encourage responsible environmental protection and preservation in ways that positively influence economic development and also preserve human and environmental health, sustainable environmental management, good environmental governance, effective environmental management and protection in Nigeria. Therefore, the article recommended proactive measures and effective environmental legislative and institutional framework in order to improve on environmental regulations. Furthermore, there is a dire need to review various national laws and the*

*1999 Constitution of the Federal Republic of Nigeria as they affect environmental protection, preservation in order to provide effective framework for regulation, sustainable environmental objectives and environmental enforcement.*

**Keywords:** *Environment, Infraction, Regulations, and Sustainable Governance*

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### **Introduction**

The current spate of industrialization brought in activities that pollute the environment. Air pollution laden with harmful particles of fumes and substances, noise pollution caused by all kinds of machines and cars, and also effects from the burning of the hydrocarbon and fossil fuel used by these locomotives. The continuous gas flaring of gases in Niger Delta over the last forty years has also contributed significantly to the release of greenhouse gases in the atmosphere, and the resultant effect not surprisingly to acid rain.

Deforestation especially in Sapele and the entire southern Nigeria also pose a lot of threat the existence of wildlife and the soil. The incessant oil spills and the alarming improper disposal of solid hazardous waste have resulted in massive pollution of water and land, destruction of artisan fishery, deforestation and so on<sup>4</sup>.

Nigeria's waters are polluted from well blow out, refinery effluents, storage tanks, spillage from loading operation at terminals and discharge of waste oil. Coastal communities have had to contend with problems of polluted rivers, stream, creeks and ground water. These environmental infractions have eaten deep into the Nigerian society and have contributed to its own quota to causing ill health suffered by human beings endangering wildlife, flora and fauna of the environment; the case of Ogoni pollution is worthy of note.

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<sup>4</sup> C.A Omaka "Legal framework of Environmental rights in Nigeria". *Journal of Contemporary legal issues*, Volume 1(2005). 64

The earliest environmental regulatory legislation in Nigeria and some Africa countries were a legacy from their colonial masters. These laws were tailored to suit their exploitative political and economic whims<sup>5</sup>. The last straw that broke the camel's back was the Koko saga of June 1988, in the old Bendel state, where tons of hazardous toxic wastes were dumped in the little town of Koko. Investigations revealed that this consignment of death came from Italy.

The effect of this toxic waste among the people of Koko included cancer resulting to immediate death. This awakened the government of Nigeria, who saw it as a challenge to environmental protection.

In 1988, the Federal Environmental Protection Agency Act was enacted to cater for environmental matters. From then onwards, Environmental matters became serious issue of concern, and environmental laws kept evolving to regulate the changing and developing activities capable of affecting environment.

### Concept of Environment

The environment has been accorded a lot of wide definitions. Environment has been defined as:

“The totality of physical, economic, cultural, aesthetic and social circumstance and factors which surround and affect the desirability and value of property and which also affect the quality of people's lives.”<sup>6</sup>

This definition was adopted in the cases of *Attorney General of Lagos State vs. A.G. of Federation and 35 Ors.*<sup>7</sup>

However, the environment has further been defined as:

“The whole complex, physical, social, cultural, economic, aesthetic factors that affect individuals and communities and ultimately, determine their form, character, relationship and survival.”

A further categorization of this definition was made into four dimensions:

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<sup>5</sup> V. A. Okhavbo, “Environmental regulatory standards: Problems of enforcement in an emerging nigerian economy”, *Igbinedion University Law Journal*, (2005). 100.

<sup>6</sup> Blacks' Law Dictionary, 7<sup>th</sup> edition.

<sup>7</sup> 2003 FWLR Pt. 168, 909 at 946.

- A. The physical environment (natural and constructed), which includes land climate, vegetation, wildlife, the surrounding, land uses and the critical character of an area, imposture, public sources, air, noise and water pollutions.
- B. The social environment, which include community facilities, services and the character of the community facilities and services and the character of the communities.
- C. The aesthetic environment- scenic area, vistas, vicious including architecture character of findings.
- D. The economic environment which includes employment, land ownership pattern and land values.<sup>8</sup>

The above definition is a broader one and encompasses both the natural state of the environment and man-made environment. A more simplified definition is that given by Professor Atsegbua where he defined environment as:

The system of abiotic, biotic and socio-economic components which adapts and transforms and uses in order to satisfy his needs.<sup>9</sup>

Finally, the National Standards and Regulation Enforcement Agency {Establishment Act, 2007} defined environment to include water, land and all plants and human beings or animals living there in and the inter relationship which exists among them.<sup>10</sup>In summary environment include all the natural and artificial forces in our surrounding and the interaction of same.

### **Environmental Infractions**

Environmental infractions simply put are actions that violates our environment. These infracting activities relate to human factors, land use and soil conservation, water resource management, forestry, wildlife and reserves, marine and coastal resources, sanitation and waste management,

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<sup>8</sup> A.O Chukwu. "The Nigerian Conservation Law" (Lagos, Lions Unique Concept, (2004), 5.

<sup>9</sup> Lawrence Atsegbua et al, 'Environmental law in Nigeria, theory and practice 2<sup>nd</sup> ed. (Benin City ambik Press, 2000),. 4.

<sup>10</sup> S. 35 interpretation section NESREA Act, 2007.

mining, air and noise pollution environmental infractions have their resultant effects, and are basically environmental pollution, i.e. land pollution, water pollution, air pollution, noise pollution.

Environmental infractions are criminal and civil in nature. Most legislation provides for sanction where environmental infraction has been committed.

### **Types of Environmental Infractions**

#### **A. Hazardous Material Release**

Hazardous materials are substances that, because of their chemical nature, pose a potential risk to life, health and or the environment if they are released. Examples of some hazardous materials include: motor oil, diesel fuel, gasoline, pool chlorine, paint thinner, anti-freeze, mercury thermometers, pesticides and herbicides. When these hazardous materials are released they pollute the air, land and water. The release of these materials could cause respiratory problems, skin cancer when the contact with human body lead to birth defects, can slow plant growth, reduce crop-yield and cause economic loss.

#### **B. Incidence Involving Solid Waste**

Incidence involving solid waste includes the depositing, or dumping, or storage of construction and demolition debris, vegetative debris, garbage, rubbish, refuse or other discarded material by a company who should have deposited for recycling, or actions of households. Most of the solid wastes like paper, plastic containers, bottles and even used cars and electronic goods are not biodegradable. This solid waste when they accumulate attracts household pests, result in unhealthy and dirty environment, caused damage to terrestrial organisms, contaminate underground and surface water.

#### **C. Release of Dust**

Dust, technically defined as finely divided solid matter, that is air borne, may occur from a variety of activities around the country. Such as Dry cutting of pavers or concrete, large trucks, buses, and heavy equipment travelling on unpaved surfaces, or spoilt and dusty

roads, operation of construction at demolition debris recycling facilities. Release of these heavy dust contaminate the air and can affect visibility and public health.

#### **D. Indiscriminate Release of Smoke/Open Burning**

Outside burning of garbage, trash, vegetative debris, pollute the air. These are usually caused by ceremonial bonfires, fire crackers popularly known as bangers or knockout, the exhaust of motor vehicles, bush burning. In Nigeria, some customs carry out activities that deter our environment i.e. in the Igbos engage in customary activities which release smoke and pollute the environment, i.e. the popular 'Nkponaani'. This device is usually planted in the ground and allowed to blow off, leaving behind a cloudy air of smoke, a deep and disturbing sound and vibration on the ground floor. The results of release of smoke into the air are ozone layer depletion which could indirectly cause skin cancer in humans as a result the increased ability of ultra violet radiation from the sun.

In places like Lagos in Nigeria it's been reported that life is fast becoming a nightmare because of contaminated air greatly caused by vehicular emissions and also owing to the population resident in Lagos City. According to a renowned environmentalist, Dr. Desmond Majekodunmi, smoke when breathed, react with oxygen in the body, which can cause instant death.

In his comparison he said, 'just lock yourself in the house of smoke for six minutes and see that you won't be alive to tell what happens. It is also argued that people in Lagos may not live as long as those in the smaller cities and villages because of poor quality which reduces life expectancy.<sup>11</sup>

Same can be said of the great commercial city Onitsha in Anambra State of Nigeria, a city where one can hardly breathe fresh air, filled with odour, and the presence existence of old over used haggard vehicles emitting deadly smokes.

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<sup>11</sup> O.I. Okoro, ecojournalism 15<sup>th</sup> March, 2012, www. Ecojournalism, (accessed on the 4<sup>th</sup> February 2020).

### **E. Noise**

Noise can be defined as an unwarranted sound, annoying, unpleasant, loud, destructing and intrusive. Noise is actually a Latin word which gives the meaning sea sickness. More commonly it can be stated as the sensation of annoyance, disgust or discomfort. Noise itself pollutes the environment.<sup>12</sup> Noise pollution is often caused by machine in factories; sound from vehicle engines, bangers, “Nkponaani” popularly used by the Igbo’s to pay respect to the dead, construction equipment, excessively amplified music.

In Nigeria, noise pollution is mostly caused by siren blaring government officials, speakers of corporate bodies such as telecommunications, and drinks and beverages manufacturers who now take their wares directly to the consumer on street, passenger calling in motor parks, road side compact CD vendors, religious revivalist who will always have reasons to hold crusades of all shades, over zealousness of police escorts or patrol vans among others.<sup>13</sup>

Noise pollution could lead to aggression, hearing loss stress, insomnia. It has been founded that one burst of noise from a passing truck is known to alter endocrine, neurological and cardiovascular function in many individuals, noise induced stress creates severe tension in daily lung and contributes to mental illness.<sup>14</sup>

### **F. Overuse of Agricultural Fertilizers/Exploitation of Land**

Used by farmers on their crops to help them grow, i.e. pesticides soaks into the underground water supplies and when it rains these chemical are wasted off into streams, rivers and lakes thus polluting them. Even sediments of dirt in farms without any chemicals are pollutants, they cause the water ways to become cloudy and muddy,

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<sup>12</sup> Effects of noise pollution, [www.smoke free Colorado.com/noise pollution/org/en/March/2012](http://www.smokefreecolorado.com/noise-pollution/org/en/March/2012) (accessed 04 February, 2020).

<sup>13</sup> Ebenezer Adurokiya, Saturday Tribune. [Tribune.com.ng/1/6711-noise pollution](http://Tribune.com.ng/1/6711-noise-pollution) (accessed on 05/02.2019

<sup>14</sup> Noise pollution in the metropolitan cities, [www.info.please.com/./noise-pollution](http://www.info.please.com/./noise-pollution) (accessed 05/02/2019

thereby causing water pollution. Also, the consistent use of ground soil for farming can cause desertification.

#### **G. Leaks of Poisonous Liquids into Waterways**

Waters used to cool hot machinery by industries when released into the waterways, increase the temperature of water drastically and kills aquatic life.

Also, anywhere a septic system is not installed properly or bursts under the ground, the underground water supply may be polluted. Oil and anti-freeze leaks from vehicles also pollute water and water pollution spread disease like cholera, typhoid, and diarrhea, harms the food chain, caused algae in water, and also causes flooding, and destroys marine life.

Indiscriminate felling of trees/hunting of games for fun. Felling of trees arise as a result of clearing land to build houses, industries, or need to use trees for firewood. The effect is that it destroys wild life, endangers animals and also displaces animals, deforestation, soil erosion, etc.

Wildlife are living organisms, plants, animals and microorganisms, other than the cultivated plants and domesticated animals. Wildlife need to be conserved for maintaining ecological balance for supporting life, preserving different kinds of species, preserving economically important plants and animals. Wildlife contributes to maintenance of material cycle such as carbon and nitrogen cycles, it improves growth agriculture, animal husbandry and fisheries, it provides useful product like food, medicine, honey, lac, wax, resin, etc. Colourful birds insects, beautiful flowers, trees make environment beautiful, and site for emissions and tourism.

In Nigeria, Cross River gorillas were once common in some part of south eastern Nigeria, but their population has declined as farming and fire have damaged their forest homes. Elephants which are around across Nigeria live only in few protected areas today. Major

carnivores in Nigeria including leopards, wild dogs and lions both threatened species are declining across the continent.<sup>15</sup>

The activities of some customs in demanding some species of animals or plant in Nigeria for traditional cleaning also caused danger to wildlife. No wonder Nigeria has joined the rest of the world to conserve wildlife by fashioning out a game reserve and other relevant laws to protect the games.

#### H. Electronic Waste Dumping

Electronic Waste is the disposal of electronic goods such as cell phones, MP3 players, televisions and computers. In realities E waste is expensive to recycle domestically, and so it is often shipped either directly or indirectly through brokers to countries where labour and environmental laws are not stringent.

This electronic waste when shipped are then dismember an labourers remove the lead, gold, copper and other valuable metals found inside the product and resell them. This process releases substances quantities of toxic heavy materials and organic compounds in the surrounding soil, air and water. Chemical substances found in E waste, many which are toxic include lead, copper, cadmium, mercury, beryllium etc. beryllium is known to cause lung cancers and beryllicosis. Mercury when accumulated in human body can damage brains and nervous system, kidneys and livers.

E-waste dumping continues to grow at an alarming rate in Nigeria. Nigeria is a party to Basel and Bamako Convention. Yet E0waste continues to flow into Nigeria. It is estimated that 500 containers of second hand electronics are imported to Nigeria every month from Europe, about  $\frac{3}{4}$  of these imported products are junk that cannot be reused and are dumped in landfills.<sup>16</sup>

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<sup>15</sup> Wildlife of Nigeria, wild world nature, conservation and wildlife. [ibenanature.com/wildworld/guides/wildlife of Nigeria](http://ibenanature.com/wildworld/guides/wildlife%20of%20Nigeria)

<sup>16</sup> Christine Terada, Northern Western University Journal, Recycling Electronic Wastes in Nigeria. [www.law.northwestern.edu/educational\\_journals/JIHR/Vol. 1/No.3/2/index.html](http://www.law.northwestern.edu/educational_journals/JIHR/Vol.1/No.3/2/index.html).

Ikeja Lagos is one of the three major hubs in Nigeria where people can repurchase electronics, such as computers etc. unfortunately, up to 75 percent of the electronics shipped to computer village is irreparable junk.

Nigeria has had a history of involvement in the E-waste trade with the infamous Koko scandal of June 1988. 45 percent of Nigeria's E0waste imports are from Europe and the other 45% from United States of America. Studies by the Nigeria Ministry of Environment suggests that basic components such as lead are being reared and then smelted in people's backyard which poses a huge risk of lead poisoning. Unregulated E-waste dismantling has led to illness in grazing animals, trained vegetables and contaminated drinking water.

In 2009, green peace, and international organization completed a 3-year undercover investigation, tracking the 2-month journey of a broken irreparable television from U.K. to Nigeria.<sup>17</sup> In the month of November 2012, the U.K. court convicted a Nigerian Joseph Benson, whose BJ Electronics toured civic waste site picking up electronic goods to be sent illegally to Nigeria for exporting a broken and un-exportable television thereby breaking waste export laws.<sup>18</sup> This calls for a stringent measure by the Nigerian Government.

### **I. Oil Spillage**

Oil spillage happens as a result of uncontrolled well blowout, pipeline rupture or storage tank failure which poses imminent threat to the public health or welfare. Oil spillage in Nigeria occurs as a result of sabotage, corrosion of pipes and storage tanks, carelessness during oil production operations and oil tankers accident. It is reported that about one quarter of available land in Delta area of former Bendel State has been rendered barren due to spillages and leakages. Some major spills in the coastal zone are the

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<sup>17</sup> Ibid

<sup>18</sup> Vanguard Mobile edition E-waste: UK Court convicted man for exporting hazardous waste to Nigeria Dec. 12, 2012, (accessed on 5<sup>th</sup> February 2013)

GOCONS escravos spills in 1978 of about 30,000 barrels, Shell Petroleum Development Corporation, Forcados Terminal tank failure in 1978 of about 580,000 barrels, Texaco funiwa 5 blowouts in 1980 of about 400,000 barrels and the Adudu pipeline spill in 1982 of about 18,818 barrels etc.

Gas flaring is the complex and unscientific burning, emitting of excess hydrocarbon gathered in an oil gas production flow station sites to waste the unutilized quantities and separate the resultant unwanted chemicals used in the process of extracting the oil and gas from the natural reservoirs.

Nigeria produces more than 400 barrels of oil in response to OPEC requirement and also about 3 billion cubic feet of natural gas and a reserve of 600 trillion standard cubic feet. However, research finding have shown that Nigeria loses enormous revenue and is faced with the threats of environmental pollution pose danger to human health and unquantifiable degradation as gas is flared.<sup>19</sup>

### **Legal Framework and Regulations**

Early legislations were not environmental-oriented, and the Federal Government of Nigeria did not have any legislations or legal instruments, either general or specific, on the petroleum sector for much of the first half of the century. According to Ogbodo<sup>20</sup>the Federal Government of Nigeria responded to most environmental problems on an ad hoc basis following the discovery of toxic waste dumped in Koko, at remote part of southern Nigeria, in June 1988. The Nigerian government reacted to the sustained media attention and public outcry to handle the situation and subsequently, many approaches have been developed for the protection and management of environmental impacts and human health risks associated with oil and natural gas exploration and production operations

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<sup>19</sup> Gas flare [wikipedia, En. Mrockpediq.org/wiki/gas flare](https://en.m.wikipedia.org/wiki/gas_flare)

<sup>20</sup> S.G. Ogbodo., "Environmental protection in Nigeria: Two decades after the Koko incident," *Annual Survey of International and Comparative Law*, 15 (1). (2009) 1-18,

in the Niger Delta.<sup>21</sup> Over past years, the Federal government of Nigeria has promulgated laws and regulations that petroleum resources exploration and production, on both onshore and offshore oilfields, could be controlled by systems of legislations which aim at minimizing the associated environmental impacts of human health risks. According to Ite et al<sup>22</sup>, some of the most important and essential petroleum related environmental laws and principal regulations governing the oil and gas sector in Nigeria are critically discussed hereunder this research.

### **Nigerian Constitution**

The Constitution of the Federal Republic of Nigeria (CFRN) contains the fundamental principles that comprehensively describe the organizational framework of the state (supreme law), the limitations on the exercise of state authority and also defines the relationship among different kinds of laws that have binding force on the authorities and persons throughout the country.<sup>23</sup> The Nigeria environmental objectives are enshrined in Chapter 2 of the 1999 operative Constitution of the Federal Republic of Nigeria and section 20 implicates the 'right' to a healthy environment. Pursuant to Section 20 of Chapter 2 of the 1999 Constitution of the Federal Republic of Nigeria, the state has obligation to protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria.<sup>24</sup> However, this afore-stated provision has one serious defect with regards to the very broad wording of the section and relevant provision falls under

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<sup>21</sup> Ite, A.E., Ibok U. J., ITE, M. U. and Petters S. W., "Petroleum Exploration and Production: Past and Present Environmental issues in the Nigeria's Niger Delta," *American Journal of Environmental Protection*, 1 (4), (2013) 78-90.

<sup>22</sup> Ite, A.E., and Ibok, U.J. "Gas Flaring and Venting Associated with Petroleum Exploration and Production in the Nigeria's Niger Delta," *American Journal of Environmental Protection*, 1(4).(2013)

<sup>23</sup> Over the past decades, Nigeria has had nine Constitutions viz the Clifford Constitution of 1992, the Richards Constitution of 1946, the Macpherson Constitution of 1951, the Littleton Constitution of 1954, the Independence Constitution of 1960, the Republican Constitution of 1963, the 1979 Constitution,<sup>23</sup>the 1989 Constitution, and the extant 1999 Constitution as amended

<sup>24</sup> Federal Republic of Nigeria, Constitution of the Federal Republic of Nigeria, 1999, Lagos, Nigeria: Federal Government Press, 1999.

Chapter 2 of the 1999 Nigeria Constitution, which is non-justiciable and as such, the provision lacks judicial enforcement in Nigeria. According to Fagbohun,<sup>25</sup> the provision under the Nigerian environmental objectives attempts to justify a possible agreement between two extreme positions formulated by a system that is not ready to initiate any serious environmental change the thrust of which may affect its economic direction and long-term developmental goals. Although Section 20 of Chapter 2 of the 1999 Nigerian Constitution has resulted in a legal mirage, the Federal Government of Nigeria has promulgated various laws and regulations to protect the Nigerian environment. In accordance with Section 4 (5) of the 1999 Constitution, the State components are permitted to enact laws under the concurrent and residual legislative lists, subject to Federal government Law made by the National Assembly.<sup>26</sup> The 1999 constitution of the Federal Republic Nigeria lacked a specific provision on the environmental protection and Nigeria operates a dualist system wherein other regional or international environmental laws cannot be enforced unless incorporated into through domestic legislation or ratification by National Assembly<sup>27</sup>. In line with Agenda 21 of the United Nations,<sup>28</sup> Nigeria in its policy on the Environment has identified establishment, strengthened legal, institutional and regulatory framework as part of its holistic strategy for implementation of sustainable development.

### **Petroleum (Drilling and Production) Regulations**

Regulations 25 of the petroleum (drilling and production) regulations provides that the licence or lessee shall adopt all practicable precautions including the provision of update equipment approved by the director of

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<sup>25</sup> O. Fagbohun., "Reappraising the Nigerian Constitution for Environmental Management" *Ambrose Alli University Law Journal*, 1(1). (2002 )24-47

<sup>27</sup> Ibid

<sup>28</sup> United Nations, Agenda 21: Programme of action for sustainable development; Rio Declaration on Environment and Development; Statement of Forest Principles: the final text of agreements negotiated by governments at the United Nations Conference on Environment and Development (UNCED), 3-14 June 1992, Rio de Janeiro, Brazil, Bonn, Germany: United Nations 1993

petroleum resources to prevent the pollution of inland waters, rivers, water courses, the territorial water might contaminate the water banks, or shore or which might cause harm or destruction to fresh water or marine life and were any such pollution occurs or has occurred take prompt steps to control and if possible end it.

The licensee or lessee shall maintain all apparatus and appliance in use in his operation, and all boreholes and wells capable of producing petroleum, in good repair and condition, and shall<sup>29</sup> carryout all his operations in a proper and workman – like manner in accordance with these and other relevant regulations and method and practices accepted by the director of petroleum resources as good oil field practice, and take all steps practicable:

- I. to prevent the escape of petroleum into any water, well, spring, river, lakes, reservoir, estuary or harbor,
- II. to cause as little damage as possible to the surface of the relevant area and to tress, crops, building, structures and any property thereon.

These regulations, if followed to the letter will go a long way towards prevention and clean up in the case of oil pollution. The regulations also require the operator to pay adequate compensation to any persons whose fishing rights<sup>30</sup> are interfered with respects that the requirement that a victim would not be entitled to compensation unless it is established that the operator exercise its right unreasonably is unsatisfactory. This would be placing too much burden on the fishermen in the riparian communities of Nigeria who are mostly poor and illiterate. It is suggested that a regime of strict liability should be put in place in other to make a claimant's burden of proof lighter. The operator should be compelled to pay compensation once it is established that there is an interference with fishing right and such interference caused damage or loss to the victim.

The scope of the regulation is rather too restrictive, as it does not cater for other interest, other than fishing rights. That might be harmed as a result of the unreasonable exercise of the operator rights.<sup>31</sup> Despite this

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<sup>29</sup> Furthermore, regulation 37

<sup>30</sup> Ibid.

<sup>31</sup> Under paragraph 37 of the first scheduled to the petroleum act, it is provided that the holder of an oil exploration licence or oil mining lease shall, or in addition to any liability for compensation to which

provision the oil companies make unfulfilled promises concerning payment of compensation to the oil producing communities whose ancestral lands have been allocated to the oil companies by the federal government of Nigeria without consultation with the communities<sup>32</sup> the local people realizing that they have been cheated and deceived by the oil companies resorts to unwholesome acts like occupying company sites, preventing staff from working or even kidnapping oil workers. The oil companies in turn hire thugs or call in the government who sends in troops to chase away the protesters. In the process violence ensues and this develops into a crisis.<sup>33</sup>

Fekumo<sup>34</sup> believes that paragraph 37 of the first schedule to the Petroleum Act imposed a strict liability for any damage caused entitling the victims to compensation apart from the general power vested in the minister of petroleum resources to revoke a licence for non-compliance with or for breach of the petroleum act or any regulations made there under.<sup>35</sup> The directory and general nature of the provisions make compliance difficult and in turn make the imposition of the sanction of revocation of licence not feasible.<sup>36</sup>

### **The National Environmental Protection (Effluent Limitation) Regulations and the National Environmental Protection (Pollution Abatement in Industries and Facilities Generating Waste) Regulations**

These regulations were made pursuant to the Federal Environmental Protection Agency; the Act itself has been repealed<sup>37</sup>. However, the regulations made pursuant to the Act have not been repealed. The

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he may be subjected under any other provision of this act, be liable to pay fair and adequate compensation for the disturbance of surface or other rights to any person who owns or is in lawful occupation of the licensed or leased land.

<sup>32</sup> L. Mitee., "National Resources, National Unity: the linkage and the divide" being a paper presented at the Annual Conference of the Nigerian Bar Association, Jos, August 2005, 53

<sup>33</sup> B. Manby, "the Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria Oil Producing Communities' Environmental and Planning Law Review (E.P.L.R) No. 2 (2005) 9 at 14

<sup>34</sup> J.F Fekumo,, "Civil Liability for Discharge Caused by Pollution" Environmental laws in Nigeria (J.A. Omotolaed) 1990, 45

<sup>35</sup> Paragraph 24 schedule 1 to the Petroleum Act

<sup>36</sup> O. Akanle, "Pollution Control Regulation in the Nigeria Oil Industry" Nigerian Institute of Advanced Legal Studies Occasional Paper 16 (1991) Legal Notice 45, 1974, 176

<sup>37</sup> Section 36 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007

regulations relevant to the petroleum industry are the national environmental protection (effluent limitation) regulations<sup>38</sup> and the national environment protection (pollution abatement in industries and facilities generating wastes) regulations.<sup>39</sup> The former allows an oil and grease content in brine and other production wastes of 10mg/litre for discharge into inland waters an infraction of this provision attracts a fine of #20,000.00 or two years imprisonment or both if the offence is committed by a corporation, the fine is #500,00.00<sup>40</sup>.

The national environment protection (pollution abatement in industries and facilities generating waste) regulations provides for an outright ban on the discharge of oil into specified water source. Regulation 15(2) provides that “no oil in any form shall be discharged into public drains, rivers, lakes, seas or underground injection without a permit issued by FEPA or any organization designated by it. The regulations place restriction on the discharge of effluents with constituent beyond specified limits and provides for contingency planning by all industries and facilities against accidental release of pollutants.<sup>41</sup> It is submitted that in view of the danger which oil poses to human, property and the environment there should be an outright ban on the discharge of oil into inland waters. Many states in the Niger Delta region have enacted environmental protections laws.<sup>42</sup> Section 44 of the Rivers State Environmental Protection Law of 1994<sup>43</sup> stipulated that:

(1) Except where the owner or operator of a vessels or an onshore or offshore facilities can prove that a waste or spillage was caused solely by a natural disaster or an act of war or by sabotage, such owner or operator of any vessels or onshore facility from which the waste discharged emanates

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<sup>38</sup> Statutory instrument (S.I) No. 8 of 1991

<sup>39</sup> Schedule 3 S.I. No. 9 of 1991

<sup>40</sup> Regulations 5

<sup>41</sup> Regulations 7 and 9

<sup>42</sup> The state includes Akwa Ibom, Bayelsa, Delta and Rivers.

<sup>43</sup> Rivers state environmental protection agency law (No. 12) of 1994

in contravention of this law, shall in addition to the penalty specified in this law be liable for:

- I. any cost incurred by the state or local government are agents in the abatement or removal of the abatement or removal of the discharged;
- II. any cost incurred by the state or local government in replacing any damaged facility or in restoring the ecology.
- III. costs of third parties in the form of reparation, restoration, restitution or compensation as may be determined by the agency from time to time;
- IV. (2) the owner or operator referred to in subsection (1) of this section shall, upon the occurrence of the discharge:
  - 1) promptly take steps to mitigate any damage caused by the discharge;
  - 2) give immediate notice to the agency of the occurrence of the discharger;
  - 3) promptly commence clean-up operation by using the most effective and efficient methods at his disposal; and
  - 4) Promptly comply with such directions as the agency may give.

The “Agency” referred to in this law is the river state environmental protection agency. Claimants under this law have a good chance of success since it creates a strict liability regime.<sup>44</sup>

Etikerentse has argued that the federal government has no legislative competence to legislate on the environment.<sup>45</sup> He asserts that environment is not included either in the executive list or in the concurrent legislative list as a subject or an item. He, therefore, submits that the subjects of “environment” are residual matters in respect of which under the federal system of governance, only states (as against the central or federal legislature) can make laws. It is submitted with the greatest respect that the submission of the learned author overlook the provision of section 4(4)

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<sup>44</sup> Section 48 of the Bayelsa state environmental and development planning authority law of 1998 contains similar provisions as section 44 of the rivers state environmental protection law.

<sup>45</sup> Etikerentse, Op. cit. 152-153

(b) of the constitution of the federal republic of Nigeria, 1999, which provides that the national assembly, has the power to legislate on any matter with respect to which it its empowered to make law in accordance with the provision of the constitution.

The Constitution<sup>46</sup> states that the state shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria. The combined provision of items 60 under the executive legislative list and section 4(2) of the constitution provide that the national assembly has power to make laws for the peace, order and good government of the federation or any part thereof. It, therefore, follows that national assembly has the power to legislate on the environment.

It is further submitted that the power of the national assembly is not residual under the constitution but concurrent with the powers of state house of assembly. This submission is based on the Supreme Court decision in the independent corrupt practices and other related offences commission (ICPC) case of *Attorney-General of Ondo State vs. Attorney-General of the Federation*<sup>47</sup> wherein Uwais (CJN) held that:

Since the subject of promoting and enforcing the observance comes under item 68 of the exclusive legislative list it seems to me that the provision of items 68 of the executive legislative list come into play. Therefore, it is incidental or supplementary for the national assembly to enact the law that will enable the ICPC to enforce the observance of the fundamental objectives and directive principle of state policy. The enactment of the act which contains provisions in respects of both the establishment and regulation of ICPC and the authority for the ICPC to enforce the observance of the provision of section 15 of subsection (5) of the constitution is very reflective on the provisions of the law. To hold otherwise is to render the provision of the item 60 (9) idle and leave the ICPC with no authority whatsoever. This cannot have been the intendment of the constitution.

### **National Environmental Standard and Regulation Enforcement Agency**

The National Environmental Standards and Regulations Enforcement Agency was enacted in July 2009.<sup>48</sup> The agency has the responsibility for

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<sup>46</sup> Section 20

<sup>47</sup> 2002 FWLR (pt. 111) p1972; 2070

<sup>48</sup> Section 1(1) of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007

the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria natural resources in general and environmental technology, including co-ordination and liaison with relevance stakeholders within and outside Nigeria no matters of enforcement of environmental standards, regulation, rules laws, policies and guidelines. However, said to note that the function of the agency does not extend to the petroleum industry. Indeed, the act specifically excluded the oil and gas sector from the purview of its operation even though it supports to legislate on the environment.

Section 7(9) of the Act provide that the agency shall enforce compliance with regulations on the importation, exportation, production, distribution, storage, sale, use, handling disposal of hazardous chemical and waste other than in the oil and gas sector. The activities of the oil and gas companies in the Niger Delta which impact negatively on the environment cannot be divorced from the environment the activities of oil and gas companies are inextricably tied to the environment. The Act has in effect restricted environmental standards for hazardous chemicals from applying to the oil and gas sector<sup>49</sup> and thus given the oil companies a carte blanche to pollute the Niger Delta environment.

### **National Oil Spill Detection and Response Agency (Establishment) Act**

The National Oil Spills Detections and Response Agency<sup>50</sup> was established in 2006.<sup>51</sup> The agency is charged with the responsibility for preparedness, detection and response to all oil spillage In Nigeria. Section 6 of the act provides that the agency shall be responsible for surveillance and ensure compliance with all existing environmental legislation and the detection of the oil spills in the petroleum sector, revive report of oil spillage and co-ordinate oil spills response activities throughout Nigeria; co-ordinate the implementation of the national oil spills contingency plan for Nigeria the removal of hazardous substance as may be issued by the federal

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<sup>49</sup> A, Mudiaga-Odje. "Niger Delta region and the principle of self-determination" being topic of paper delivered on the University of Benin Law Student Association on Wednesday 8<sup>th</sup> October 2008 at the University of Benin.

<sup>50</sup> Ibid

<sup>51</sup> The National Oil Spill Detection and Response Agency Establishment) Act 2006, section 1

government and perform such other function as may be required to achieve the aims and objective of the agency or any plan as may be formulated by the federal government pursuant to the Act. Failure to report an oil spill to the agency within twenty four hours after the occurrence of spill constitute an offence and the penalty is five hundred thousand naira (#500,000.00) for each day of failure to report the occurrence.<sup>52</sup> An oil spiller is expected to clean up and carry out remedial measures on the impacted site. Hence it is if failure to clean up the impacted site all practical extent including remediation shall attract a further fine of one million naira (#1.000.000.00)<sup>53</sup>. The act has placed lofty objectives and function on the agency which the agency in the Niger Delta, the response of the agency to these spillages have been poor. This is not surprising; the agency lacks the wherewithal and necessary man power to perform the various function placed upon it by the Act the provision of the act are commendable but the implementation of the provisions like most laws regulating the petroleum industry with respect to the collaboration with the United Nations Development Programme (UNDP) put up advertisement requesting for exports and consultants to produce regulations for oil spills and oil water management and guidelines for oil spills recovery, clean up, remediation and damage assessment.<sup>54</sup> The Act<sup>55</sup> provides for offences and penalties where a polluter fails to report oil spill within 24hours, and for failure to clean up the polluted site<sup>56</sup>.

This statutory regulation makes adequate regulation on waste emanating from oil production and exploration and its potential consequences to the environment.

This statutory regulation makes adequate regulations on waste emanating from oil production and exploration and its potential consequences to the environment.<sup>57</sup>

With regards to some of the legislation discussed above the provisions relating to the enforcement organs under the various laws show significant

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<sup>52</sup> Op. cit. section 6 (2)

<sup>53</sup> Op. cit. section 6 (3)

<sup>54</sup> B.A. Ajakaiye, "issues and response to oil spill management being a paper presented a workshop organized bu Niger Delta Re-orientation project I Warri on the 3<sup>rd</sup> August 2009.

<sup>55</sup> Cap 157, LFN, 2004

<sup>56</sup> Section 5 and 6

<sup>57</sup> *Ibid*

overlap of functions between the different organs set up by the different laws for the same type of offence.<sup>58</sup> For example Special Tribunal (Miscellaneous Offences) Act, Criminal Justice (Miscellaneous provisions) Act and Petroleum Production and Distribution (Anti-sabotage) Act, the punishment prescribed by the three Acts are separate and distinct from each other, it depends on which of the laws the accused is charged. There is therefore no uniformity in terms of punishment in respect of the offence of sabotage or oil theft.<sup>59</sup>

### **The Associated Gas Re-Injection Act<sup>60</sup>**

Under section 3<sup>61</sup> of the associated gas re-injection act, no company was to flare gas after January 1, 1984 and the penalty prescribed was the forfeiture of all concessions granted in respect of the field<sup>62</sup>. However the act empowers the minister of petroleum resources to issue a certificate to oil company when he is “satisfied” that the utilization of re-injection of the produced gas is not appropriate or feasible in a particular field of fields and to impose a penalty for gas spills and flared. It is submitted that the continued flaring of gas constitute a danger to the fauna and flora of the Niger Delta as well as the health of the inhabitant of the area.<sup>63</sup> The fine realized from defaulting oil companies is paid to the federal government coffers instead of those who are directly affected adversely. It is further submitted that this law needs to be amended so that the money realized is channel towards the development of the affected areas<sup>64</sup>. This suggestion has become imperative since the federal government seems not to be serious with the several deadlines given to the oil companies to stop flaring

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<sup>58</sup> *Ibid*

<sup>59</sup> *Ibid*

<sup>60</sup> *Cap. A25 LFN 2004*

<sup>61</sup> Section 3 (1) prohibits, without lawful permission, any oil and gas company from flaring gas in Nigeria.

<sup>62</sup> *Op. Cit.* section 4

<sup>63</sup> Section 4 stipulates the penalty for breach of permit conditions.

<sup>64</sup> S. Folarin, “Niger Delta environment, Ogoni Crisis and state” *CENEOD* Vol. 7 no. 1 24 (2007) 32-33

gas. The deadline which was shifted to 2008 has been postponed indefinitely.

The Associated Gas Re-Injection Act<sup>65</sup> deals with the gas flaring activities of oil and gas Companies in Nigeria. The following sections are relevant to pollution prevention: -

### **Environmental Impact Assessment Act<sup>66</sup>**

The Environment Impact Assessment Acts makes it mandatory for an environment impact assessment (EIA) study of a project to be prepared at the early stage of the project before the project is undertaken.<sup>67</sup> The requirement of the act for an environmental impact assessment is a structured process for gathering information about the potential impacts on the environment of a proposed project and using the information, decide whether such project should proceed either as proposed or with modification or otherwise.<sup>68</sup> The environmental impact assessment was required to be administered by FEPA. Where in the opinion of FEPA the project is likely to cause significant adverse environmental effects that may not be immitigable, the agency shall not permit such project to be carried out but where the effects of such projects are immitigable then the proponents of such projects are expected to comply with all measures stipulated by the agency to mitigate the effects.<sup>69</sup> It is worthy of note that FEPA shall allow the public to participate at any significant stage of a project and assures the public of information on project requiring assessment.<sup>70</sup> However the right to comment does not carry with it the competence or standing to seek a judicial review of a decision of the agency on an environmental impact assessment. To this extent the law is not helpful to activists who seek to protect the fragile ecosystem of the Niger

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<sup>65</sup> Ibid

<sup>66</sup> Cap E12, LFN, 2004

<sup>67</sup> Op. Cit. Section 2

<sup>68</sup> R.T Okonkwo., the Law of Environmental Liability (Lagos: AEDE 2003) 2

<sup>69</sup> Cap E 12 L.F.N 2004 section 3

<sup>70</sup> Op. cit. sections, 7,8,9,22(5), 25, 39 and 57

Delta.<sup>71</sup> The federal ministry of environment now performs this function that was hitherto performed by FEPA.

### **The Criminal Code**

Section 45 of the Criminal Code Act<sup>72</sup> imposes a jail term of six months for any persons who corrupt, fouls the water of any spring, stream, well, tank or place to render it less fit for the purpose for which it is ordinarily used. Similarly, section 247 states any persons who “vitiates” the atmosphere in any place so as to make it noxious to health of persons or who does any act which is and which he knows or has reason to believe to be, likely, to spread the infection of any disease dangerous to life whether human or animal is guilty of an offence punishable with six months’ imprisonment. These provisions are applicable to oil pollution of water as other forms of environmental degradation, but the penalty of imprisonment is inappropriate for corporate offenders.

### **Harmful Waste (Special Criminal Provisions) Act**

The Harmful Waste (Special) Criminal Provision Act<sup>73</sup> was enacted in quick response to the importation by an Italian national of a consignment of toxic waste into the port of Koko, Delta State, in 1988. Under section 1291) of

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<sup>71</sup> *Oronto Douglas vs. Shell Petroleum Development Company of Nigeria Ltd & Ors.* (Unreported, suit No, FHC/L/SC/573/93, ruling of federal high court Lagos, delivered on February 17, 1997.

<sup>72</sup> The Criminal Code C38 L.F.N. 2004 contains provisions for the prevention of public health hazards and for environmental protection. Hence this code deals with offences ranging from water fouling, to the use of noxious substances. The Criminal Code section 245 of the Criminal Code, makes fouling of water an offence. It punishes any person who fouls any spring streams, well, tank, reservoir or place, so as to render it less fit for the purpose for which it is ordinarily used such a person is guilty of a misdemeanor and is liable to six months imprisonment. Again, any person committing noxious acts which affects public health may also be punished under section 247 of the criminal code. This provision may be particularly appropriate for the punishment of oil theft and sabotage in Nigeria. With regards to some of the legislation discussed above the provisions relating to the enforcement organs under the various laws show significant overlap of functions between the different organs set up by the different laws for the same type of offence. For example, Special Tribunal (Miscellaneous Offences) Act, Criminal Justice (Miscellaneous provisions) Act and Petroleum Production and Distribution (Anti-sabotage) Act, the punishment prescribed by the three Acts are separate and distinct from each other, it depends on which of the laws the accused is charged. There is therefore no uniformity in terms of punishment in respect of the offence of sabotage or oil theft.

<sup>73</sup> Cap H1, LFN 2004

the Act, where any damage has been caused by any harmful waste which has been deposited or dumped on any land, territorial waters, contiguous zone, exclusive economic zone of Nigeria, or its inland water any person who deposited, dumped or imported the harmful waste or caused the harmful waste to be so deposited dumped or imported shall be liable for the damage except where the damage-

- I. Was due wholly to the fault of the person who suffered it, or
- II. Was suffered by a person who voluntarily accepted the risk thereof.

The act defines damage 'as the death of or injury to any person including any diseases and any impairment of physical or mental condition. The relevance of this legislation is that should any harmful waste be generated in the process of offshore petroleum operations and should damage result there from, a tortfeasor is liable to compensate his victim

#### **Oil in Navigable Waters Act,**

The Oil in Navigable Waters Act<sup>74</sup> is concerned with the discharge of oil from ships. The following sections are significant provisions of the Act which expressly prohibits the discharge of oil from a Nigerian ship into territorial waters or shorelines. The Act makes it an offence for a ship mater, occupier of land, or operator of apparatus for transferring oil to discharge oil into Nigerian Waters. It also requires the installation of anti-pollution equipment in ships, such violation makes the offender punishable for such discharge with a fine of N2, 000 (Two thousand naira).<sup>75</sup> The provision of the Act requires the records of occasions of oil discharge.<sup>76</sup>

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<sup>74</sup> Cap 06, LFN, 2004

<sup>75</sup> Section 6

<sup>76</sup> The criminal regime includes the oil in navigable waters act, the criminal code and the harmful waste (special criminal provision) act. In general, the oil in navigable waters act relates to the prevention of pollution of waters by marine vessels. It is an offence under the act for a Nigerian ship to discharge oil into part of the sea designated as "prohibited sea area". An infraction of this provision attracts a fine for the owner or master of the ship not exceeding N2, 000 on summary trial. Prohibited sea areas are listed in a schedule contained in the act and essentially cover all sea areas within fifty miles from land and outside the territorial waters of Nigeria. It is an offence under section 3 of the act to

The Oil in Navigable Waters Act is concerned with the discharge of oil from ships.

The following sections are significant: -

- I. Section 1 (1) prohibits the discharge of oil from a Nigerian ship into territorial waters or shorelines.
- II. Section 3 makes it an offence for a ship master, occupier of land, or operator of apparatus for transferring oil to discharge oil into Nigerian Waters. It also requires the installation of anti-pollution equipment in ships.
- III. Section 6 makes punishable such discharge with a fine of N2, 000 (Two thousand naira).
- IV. Section 7 requires the records of occasions of oil discharge.

The Oil in Navigable Waters Act, 2004, through more specific and comprehensive, still has some loopholes. For instance, offences created under the Act are of such complex nature that they cannot be handled effectively by the courts which are often overcrowded with pending cases. Magistrate court jurisdiction over offences under the Act ought to be

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discharge oil from any vessels from any place on land, from any apparatus used for transferring oil from or to a vessel into the “whole of the sea within the seaward limits of the territorial waters of Nigeria” and other waters within close limits including inland waters which are “navigable by sea-going ship”. The act contains so many defence that it may be difficult to secure a conviction under it. It is a complete defence to establish that the discharge from vessels occurred for the purpose of securing the safety of any vessels; for the purpose of life; as a consequence of damage to the vessels or by reason of leakage if the leakage was not due to any want of reasonable care. Other defence includes sabotage; absence of negligence and showing that oil was contained in an effluent product from a refinery. Another severe limitation to the effectiveness of the act is the stipulation contained in section 12 that no action is brought under the act except with the consent of the attorney general of the federation. The scope of the act is highly restricted. The act seems to have been deliberately drafted in such way as to provide a way for the refineries in Nigeria to escape the liability they ordinarily ought to bear. The act seems not to have provided a remedy for the victim of the adverse effect of oil exploitation. The various escape provisions are such that render the provision of the act meaningless. The act which was enacted in order to give effect to the international convention for the prevention of pollution of the sea has a major lacuna; its provision apply only to Nigeria ships excluding foreign ships. This is a major loophole as foreign- owned ships could also be responsible for oil spillage in the country territorial waters. The Amaco Cadiz ship was spilled oil into the French coast of ushuan on the 16<sup>th</sup> March 1978 was technically owned by a Liberian company but was owned by Amaco international oil company in Chicago, U.S.A.

curtailed. This is because the enforcement of penalties can only be done by a High court. In practical terms therefore, where an offender is unable to pay a fine imposed on him, the prosecution will have to commence separate proceedings for enforcement at a High Court with its entire attendant rigors and difficulties.

Moreover, the nature of cargo, the saving of which justifies discharge of damaging pollutants into water is not specified. Furthermore, the defense of accident, which exculpates a polluter if he can prove that the pollutant escaped accidentally as a result of damage to his vessel or leakage there from, and that all urgent and reasonable steps were taken to contain the discharge and reduce its impact on the environment can be easily pleaded by an offender even if it happens as a result of gross negligence on his part. Another problem associated with the Act is that the defenses allows, and the imprecise nature of the punishment prescribed under the Act make it very clear that it would be practically difficult; if not possible to secure the conviction of any person under the Act. Again section 6 of the Act provides that any charge relating to contravention of the Act can only be initiated with the consent of the Attorney general of the federation.

## Regulatory Challenges

### A. Conflicts of Statutory Regulations

Section 20 of the 1999 constitution provides that state shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria. Regrettably, this provision is under the non-justiciable section by Section 6(6) c of the constitution.

However, the African charter on Human and People's Right which is now part of Nigerian law by virtue of the African Charter (Ratification and Enforcement) Act<sup>77</sup> provided for an Environmental Right in Article 24 of the Charter that assures a general satisfactory environment for all people for their development. And again, the environmental right provided by

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<sup>77</sup> Vol. CAP A9 LFN, 2004

the charter is weakened by the provision of S. 6(6) © of same constitution. Any other law, such as the Africa Charter, which makes environmental protection by the state a justiciable right would be contrary to the constitution and section 1(3) of the constitution will be invoked against such law.<sup>78</sup>

In the case of **Abacha v. Fawehimi**<sup>79</sup> Supreme Court held that the constitution is superior to any international convention of law including African charter and local statutes. This Non-justiciability provision is a clog in the wheels of enforcement of environmental right and discouraging environmental pollution. Section 7 of the NESREA Act mandates the Agency to enforce compliance with the provisions of International agreements, protocols, conventions and treaties on the environment... and such other agreement as may from time to time come into force. Nigeria has ratified several international agreement on the protecting the environment. S. 12(1) of the constitution of the Federal Republic of Nigeria provides that “No treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly. With this impediment international treaties will barely have the force of law in Nigeria.

#### **B. Inadequate Penalties in Legislation**

Most of the penalties and fines for environmental crimes are insufficient and not commensurate bwith the gravity of the crimes committed. The NESREA regulations would seem to appear to have prescribed adequate compensation, but the question that arises is what a million naira will mitigate in the damage caused by oil spillage on a large parcel of farming land, given the “resultant effect on that soil and its effect to human health, water and the air.

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<sup>78</sup> C.A. Omoka ‘Legal framework for environmental right in Nigeria’. Pg. 72

<sup>79</sup> (2000) 6 NWLR (pt 660), 228.

**C. Poverty**

Poverty also contributes to the violations on the environment and helplessness of legislative acts, since a family who do not have money to buy cooking gas will simply resort to firewood and polluting our environment. The law can hardly come after them, because given the circumstance of the violation it would be unreasonable to prosecute a breach of environmental law and in the process breach a fundamental right to life of the poor citizens.

**D. Corruption/Collusive Practices**

Corruption is one of the most formidable challenges militating against the proper regulation and enforcement of environmental crimes. In Nigeria, regulating apparatus available to combat environmental crimes are corrupt and collusive. These corrupt practices mostly involve enforcement and regulatory officials who, cocooned by familiar bureaucracies, weak legislation and poor enforcement modes, connive with environmental criminals. They derive benefits from these crimes and are unwilling to do anything to reduce or contain them. Their conduct includes signing and forging import and export certificates, mislabeling of regulated products amongst others.

**E. Indifference towards environmental law**

Most Nigerians are not familiar with environmental crime regime, and the really do not want to know. They are so used to polluted environment that they do not understand the hazards.

**F. Inadequate Non-Governmental Organization Enlightenment on Environmental Pollution**

Awareness on environmental pollution, causes, effects and regulatory laws is low due to lack of organization or personnel to create this awareness.

**G. Benefits of Corporate Jobs**, in Nigeria today, the benefits of corporate jobs especially oil companies will only increase the number of prospective workers ready and willing to involve themselves in environmental infracting activities.

- H. **Effect of Weak Government:** Nigeria's weak governance structure has contributed to a lot of chaos in our political and economic environs with the existence of anti-government groups resorting to use explosives and guns to get attention and responses from the government thereby polluting our environment on the one hand, and the existence of monster corporations that engage in all sorts of environmental unfriendly activities which they consider as lucrative on the other hand.
- I. **Unsecured Borders:** Nigeria has very porous borders which makes it easier for the smuggling of environmental unfriendly commodities and smuggling out of environmental sustaining specimens, i.e. sale of endangered species of plants and animals.
- J. **Judicial Challenges:** The role of the judiciary is not only to interpret laws but to do justice timeously, because it is said that justice delayed is justice denied. Many environmental matters flood the court and they delayed while victims of this pollution suffer the detriments

### **Recommendations**

- A. Environmental regulatory laws in Nigeria should be reviewed to provide for stiffer sanctions that would effectively deter intending environmental polluters.
- B. There should be a collection of environmental data on activities threatening the environment and also data on environmental pollution within the country so that the government will know when its laws are efficient and when they are not enough and to also enable government analyze the extent of harm done to the environment.
- C. Since environmental pollution is a very serious issue of concern and affects both young and old, courses should be introduced in primary, secondary school and the various universities in Nigeria as a compulsory subject with the aim of enlightening pupils about environment, its pollution and effects.

- D. Our government should put in more effort in enforcing these numerous environmental laws by making funds available for enforcement, closing its eyes against corruption, managing polluted environments with the various taxes paid, embarking on campaign and environmental awareness programs, providing more securities at our country borders.
- E. Government should also build functioning waste recycling companies to reduce the release of toxic and hazard waste in our environment.
- F. The government should set up a fund, funded by it and industries whose activities endanger the environment, with the sole purpose of compensating victims of environmental pollution.
- G. The court should wake up from their slumber and tackle environmental cases with undue delay or undue regards to technicalities.
- H. The government should set up environmental court to enable easy access and quick dispensation of environmental matters on its merits.
- I. Courts should be ready to award deserving compensation to victims of environmental pollution.

### **Conclusion**

It is true that globalization is the major cause of our suffering, it is also correct to say that we suffer more than the gains of globalization. We have varieties of laws protecting our environment, these laws are sufficient to sustain us in a friendly environment. Therefore we must continue to strive by abiding and promoting these environmental laws, implementing equally enforcing those laws.

We owe a duty to ourselves, our children both born and unborn to keep the environment safe, by doing everything our capacity to minimize pollution, and saving the flora and fauna in our environmental. Above all we owe God our maker the duty to sustain our lives in a pollution free environment in appreciation of what he has given us.