

A CRITICAL APPRAISAL OF THE ENFORCEMENT OF ENVIRONMENTAL LAWS IN NIGERIA

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Abstract

The importance of a healthy environment cannot be overemphasized. Despite the existence of numerous environmental laws in Nigeria, there is degradation of the country's ecosystem as a result of weak compliance with environmental laws. This research interrogates the extant legal and institutional framework regulating the environment; these include the 1999 Constitution (as amended), Environmental Impact Assessment Act, 1992, Petroleum Act, 2004, Petroleum Industry Act, National Environmental Standards and Regulations Enforcement Agency Act, 2007, and their enforcement. The methodology adopted is doctrinal. Findings show that Nigeria has a plethora of environmental laws, but there are many challenges hindering their enforcement and the optimal performance of the regulatory agencies; recommendations are proffered for the effective enforcement of environmental laws in Nigeria.

Keywords: Environment, Enforcement, Pollution, Biodiversity, Ecosystem

1.0 INTRODUCTION

Nigeria is richly endowed with diverse environmental resources; these include mineral deposits and fertile agricultural land. However, rapid population growth, vast industrialization, urban expansion, provision of public infrastructure, and weak compliance with environmental laws have resulted in severe environmental degradation over the years. The importance of a good environment can never be overemphasized;

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the interdependency of man and the environment is fundamental. Practically, without the ecosystem, man's existence would be an impossibility; this is why, before the creation, God ensured that man had a conducive environment.¹

The Niger Delta Region of Nigeria is a good case study of environmental degradation. The Niger Delta Region is the largest wetland in Africa and among the third largest in the world.² About 2,370sq/km of Nigeria's Niger Delta consists of rivers, creeks, and estuaries; stagnant swamps cover approximately 8,600sq/km, the Delta mangrove swamp spans about 1,900sq/km as the largest mangrove swamp in Africa. Nigeria's environment harbors a tropical rainforest ecosystem comprising diverse species of flora and fauna, aquatic and terrestrial species, and a coastal area of mangrove vegetation traversed by many rivers, tributaries, and creeks.³ Since pre-colonial days, oil and gas have played a vital role in Nigerian economic development. The exploitation has caused environmental degradation and hampered the nation's environmental sustainability.⁴ The rich biodiversity of the Niger Delta region is threatened by unsustainable oil and gas mining activities. Land resource degradation, renewable resource depletion, and oil and gas pollution are the irreversible consequences of prolonged dependence on oil and gas exploitation by the nation.

¹ Genesis 1 verse 24, The Holy Bible (King James Version)

² S.C. Izah, 'Ecosystem of the Niger Delta Region of Nigeria, Potentials and Threats' (2018) 2(4) *Biodiversity International Journal* 339 CNP Okonkwo I. Kumar and S. Taylor. 'The Niger Delta Wetland ecosystem: What Threatens it and Why Should We Protect It?' (2015) 9 (5) *African Journal of Environmental Science and Technology* (452)

³ E. A. Anyogu, E. H. Nyekwere, Appraisal of the Legal and Institutional Framework for Sustainable Environmental Management in Nigeria' (2020-2021) 16 *The Nigerian Juridical Review*, 155-176

⁴ A. O. Atubi, Effects of Oil Spillage on Human Health in Producing Communities of Delta State, Nigeria' (2015) 4 (8) *European Journal of Business and Social Science* 15.

The issue of the protection of the environment was given constitutional recognition for the first time under the 1999 Constitution of the Federal Republic of Nigeria.⁵ The incorporation of Environmental objectives into Chapter II of the CFRN gave the Federal Government a comprehensive Act that will regulate and enforce environmental matters. In 2007, the National Assembly enacted the NESREA Act.⁶ This, in turn, established a body known as the National Environmental Standards and Regulations Enforcement Agency (NESREA)⁷. The petroleum industry is pivoted on the use of sophisticated technology for the process of tapping, drilling, and harnessing petroleum; all these have negative effects on the physical, economic, and social environment. There have been various cases of oil spillages as threats to human health, safety, wildlife, and biodiversity *Gbemre v Shell Petroleum Development Company of Nigeria Ltd.*⁸.

The urgent need to put mechanisms in place to protect the Nigerian environment led to the enactment of many extant laws and the establishment of some environmental institutions to prevent the environmental systems from further deterioration. However, the mere existence of environmental laws is not enough; if they are not effectively enforced, this will put the mechanisms and processes to ensure compliance with environmental laws in jeopardy. This study aims to appraise the enforcement of environmental laws in Nigeria, the legal framework, the enforcement agencies, challenges hindering the enforcement, and make recommendations for strengthening environmental law enforcement in Nigeria.

⁵ CFRN 1999 (as amended), s 20

⁶ NESREA Act No. 25 of 2007

⁷ NESREA Act 2007, s 1

⁸ Unreported Suit No FHC/CS/B/153/2005

2. THE CONCEPT OF ENVIRONMENT

The term ‘environment’ is inherently technical in scope and application. This generally accounts for difficulties in finding a uniform and generally acceptable definition of the term.⁹ Environment is the conditions affecting the development, growth, or preference of a person or thing. It is also the physical conditions of a particular place where a living person or things exist.¹⁰

Environment has also been defined as a product of man’s understanding and experience of his surroundings, and is perpetually shaped by man’s usage and interaction with it. Hence, the United Nations Stockholm Conference on Human Development asserts, ‘man is both creature and molder of his environment; this gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth.’¹¹ In Nigeria, it is provided that the state shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria.¹²

Definitely, different definitions have been given on this subject of environment by scholars, courts, international bodies, statutory and treaty provisions. The environment is evidently nature’s most generous contribution to human existence on earth,¹³ and it has become an important part of our continued existence. It is only in the environment that life exists. The food, water, the air, and the land are all strong components of the environment; if man is disconnected from it, he

⁹ O.G. Amokaye, *Environmental Law and Practice in Nigeria* (2nd edn: MIJ professional Publishers, 2014)

¹⁰ A. B. Garner, *Black’s Law Dictionary*, Texas 11th ed Thomas Reuter’s, 2019) 675

¹¹ Preamble para 1 Report of the United Nations Conference on Human Development and Environment, Stockholm, 1972, A/CONF 48/Rev/New York, 1972) 3

¹² Section 20 CFRN 1999 (as amended)

¹³ T. Osipitan, ‘A Conspectus of Environmental Laws in Nigeria’ 1997 (1) *Nigerian Journal of Public Law*, 85.

dies. From whatever perspective the environment is defined, it is the source of sustenance that we depend upon. We look to it for food, fuel, medicine, water, and other materials. We also look to it for the realm of beauty and spiritual assistance.¹⁴

2.1 Environmental Law

Environmental Law is the set of rules and regulations laid down by the state, its agencies, and non-state actors for the protection of the environment, preservation of natural resources, and guarding against any form of pollution, for the ultimate protection of man's life and that of flora and fauna. It embodies all the natural and manmade rules that bring sanity in our relationship with our environment, of which non-compliance will elicit some sort of sanction against defaulters.¹⁵ Environmental law can simply be defined as any rule of law which is made or used for the protection, maintenance, conservation and improvement of the environment, including those for the redress of environmental harm.¹⁶ Environmental laws are statutory and non-statutory laws, including legislation and the received English Law of general application, used to protect the environment. They include laws passed as both State and Federal legislation to address air, water, noise and land pollution.

¹⁴ K. Anan, Secretary General, United Nations, Opening Statement at the World Summit on Sustainable Development, See A/CONF/99/20 at p. 154.

¹⁵ Livinus I. Nwokike, *Environmental Law, National and International Law Perspectives Theory and Practice* (1st edn Princeton and Associate Publishing Co. Ltd, 2025) 3

¹⁶ A. Omaka, *Nigerian Conservation Law and International Environmental Treaties*, (2nd edn: Lagos, Princeton & Associate Publishing Co. Ltd. 2018) 6

The scope of environmental law cuts across the Laws of Tort, Criminal Law, Property Law, Land Law, Medical Law, Riparian Rights, and Related Issues in International Law.¹⁷

3.0 LEGAL FRAMEWORK FOR THE ENFORCEMENT OF ENVIRONMENTAL LAW IN NIGERIA

The government of Nigeria has lent credence to the enforcement of environmental laws by enacting specific legislation to check degradation; cognate policy statements have also been made to this effect. Many of these legislations relate generally to the protection of the environment, and some of them will be examined here:

3.1 Constitution of the Federal Republic of Nigeria, 1999

Before the 1999 Constitution came into force, previous constitutions did not make provision for the protection of the environment. Section 20 of the 1999 Constitution provides that:

The State shall protect and improve the environment and safeguard the water, air, land, forest and wildlife of Nigeria¹⁸

Section 20 of the Constitution is provided for under Chapter 11 as one of the Fundamental Objectives and Directive Principles of State Policy. This dimension brings a new responsibility of the state to protect and improve the environment for society. Section 17 (1) (d) of the Constitution lends support to Section 20; it provides thus:

In furtherance of the social order, exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community shall be prevented.¹⁹

¹⁷ T. Okonkwo, *The Law of Environmental Liability*, AEDE Publications, 2003) p.12

¹⁸ Section 20 CFRN (as amended)

¹⁹ Section 17 (1) (d), 1999 CFRN (as amended)

Section 24 (e) of the Constitution makes it clear that the responsibility for the protection of the environment is not the duty of the state alone, but that of all the citizens of Nigeria. This section provides that:

It shall be the duty of every citizen to help appropriate and lawful agencies in the maintenance of law and order.²⁰

While doing this, the citizen makes a positive and useful contribution to the advancement, progress and well-being of the community where he resides.²¹ Section 20 of the 1999 Constitution forms part of the right guaranteed by the International Covenant on Economic, Social and Cultural Rights (the ECOSOC rights) and the African Charter on Human and Peoples' Rights (African Charter), both of which Nigeria is a signatory to.²² The African Charter was domesticated in Nigeria in 1983 under the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.²³

Section 6 (6) (c)²⁴ vitiates or impairs the validity of Section 20 and 24 (d) and (e) respectively, as these sections are unenforceable. The provision in Section 6 (6) (c) of the Constitution suffers negatively from the loopholes that make it difficult to enforce; thus, the judicial organ of government is rendered helpless. However, other institutions of government are not hampered; the Federal Ministry of Environment and other Environmental Regulatory Agencies have potent tools for enforcing environmental laws, despite the provisions of Section 6 (6) (c) of the Constitution.

²⁰ Section 24 (e) 1999 CFRN (as amended)

²¹ Section 24 (d), 1999 CFRN (as amended)

²² Cap A9 LFN 2004

²³ CAP A9 LFM 2001

²⁴ CFRN 1999 Section 6 (6) c (as amended)

Despite the limitations of Chapter 11 of the 1999 Constitution, Nigerian courts have entertained cases seeking to enforce healthy environment rights, such as *Jonah Gbemre V Shell Petroleum Development Company Nigeria Ltd.*²⁵. In this case, the Federal High Court made a declaration that the plaintiff's constitutionally guaranteed right to life included the right to 'a clean, poison-free, pollution-free and healthy environment'. The Court founded its decision on the Right to Life guaranteed by Chapter IV of the 1999 Constitution, as well as Article 24 of the African Charter, which guarantees the right to a clean environment. It is necessary for the Nigerian legislature to initiate an amendment to the sections of the Constitution, such as section 6 (6) (c), which are against the enforcement of environmental rights.

3.2 Environmental Impact Assessment (EIA) Act, 1992

This Act was enacted for the purpose of allowing a prior consideration of environmental impact assessment on certain public or private projects. The idea behind the Act is to assess the likely impact of new industrial or scientific projects upon the natural environment with regard to pollution, biodiversity, ecosystem balance, and sustainable development.²⁶ The principal purpose of the screening is to ensure that projects, public or private, that may have adverse environmental impact may either be suspended, fine-tuned, or relocated to avoid the concomitant environmental effect.

Section 1 of the Environmental Assessment Act, 1992 states cases where EIA is required, they are nineteen in number, among them is petroleum under item 12, covering oil and gas fields developments, construction of offshore pipelines in excess of 50 kilometers in length,

²⁵ Suit No: FHC/B/CS53/05 The Judgement was delivered on 14th November, 2005

²⁶ Preamble to the Environmental Impact Assessment Act Cap E 12 LFN 2004

construction of oil and gas separation, possessing handling and storage facilities, construction of oil refineries, construction of products depots for the storage of petrol, gas or diesel (excluding service stations) which are located within three kilometers of any commercial, industrial or residential areas and which have a combined storage capacity of 60,000 barrels or more.²⁷ With this provision, the Act is also meant to regulate or prevent oil exploration and other mining activities that may have adverse environmental effects. The Act prescribes a blanket fine of N100,000.00 or imprisonment for five years for individual violators, and not more than ₦1,000,000.00 for corporate violators.²⁸ The non-graduation of the penalty and punishment for different levels of offenders is a setback for the Act.

A major problem of environmental impact assessment in Nigeria is that it is usually carried out when a project has reached an advanced stage of conceptualization, and it is done with the purpose of finding remedies for likely negative consequences. Another challenging aspect of EIA reliability is the lack of requisite information needed by the impact assessment group upon which to base their findings.

3.3 Harmful Waste (Special Criminal Provisions) Act, 1988

This Act was enacted as a response to the dumping of harmful toxic wastes at Koko, Delta State by an Italian Company. The Act prohibits the dumping or depositing of harmful waste in the air, land, or waters of Nigeria.²⁹ An interesting feature of the Act is that, notwithstanding its depiction as an Act with “Special Criminal Provisions”, it provides

²⁷ S.13 (Item 13 (a) – (e). Item 14 (a) also requires ETA for the construction of stream-generated power station burning fossil fuel and having a capacity of more than 10 megawatts.

²⁸ S.62 of EIA 2004

²⁹ S. 1 (HWSCP) Act, Cap H1, LFN, 2004

for civil liability of offenders to persons who have suffered injury as a result of the offending Act.

The Act provides a punishment of life imprisonment for any person convicted of it,³⁰ for the act of dumping toxic waste or for the facilitation of the offence, as well as the negligent officer of any company that commits the offence.³¹ The Act also provides for the civil liability of the offenders.³²

3.4 The Petroleum Act³³

The Petroleum Act came into effect on 27th November 1969, to provide for the exploration of Petroleum from the territorial waters and the Continental Shelf of Nigeria and to vest the ownership of, and all onshore revenue from, petroleum resources derivable therefrom, in the Federal Government, and for all other matters incidental thereto. By the provision of Section 2, the Minister of Petroleum and Solid Minerals is empowered under section 2 (a)- (c) to grant a license, to be known as an oil exploration license, to explore for petroleum, a license to prospect for petroleum, and a lease to be known as an oil mining lease. Section 8 (a) states that the Minister shall exercise general supervision over all operations carried on under licenses and leases granted under this Act, and report annually to the Federal Government on the programs of the oil industry in Nigeria.

3.5 Oil in Navigable Waters Act (ONWA), LFN 2004³⁴

The Oil in Navigable Waters Act prohibits the discharge of oil or any mixture containing oil into the sea and territorial or navigable inland

³⁰ S. 6 & 11, EIA

³¹ S. 7, EIA

³² S. 12, EIA

³³ Petroleum Act, Cap P.10, Laws of the Federation of Nigeria, 2004

³⁴ Oil In Navigable Waters Act, 1968, Cap OB LFN 2004

waters of Nigeria. Section 1 (1) of the Act³⁵ provides that ‘if any oil to which this section applies is discharged from a Nigerian ship into a part of the sea which, in relation to that ship, is a prohibited sea area, or if any mixture containing not less than 100 parts of oil to which this section applies is discharged from such a ship into such a part of the sea, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence under this section.

The Act provides for a penalty for violation of its provisions, but failed to stipulate the minimum or maximum amount for such penalties. It only stated, without adducing any reason, that where trial is by a court of summary jurisdiction other than a High Court, such penalty shall not exceed Two Thousand Naira.³⁶

4. INSTITUTIONAL FRAMEWORK FOR THE ENFORCEMENT OF ENVIRONMENTAL LAWS IN NIGERIA

National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007

The NESREA Act came into force in 2007; it established an agency, a body corporate with perpetual succession and a common seal, and may be sued in its corporate name.³⁷ To date, it remains the most viable environmental legislation in Nigeria; this Act repealed the Federal Environmental Protection Agency (FEPA) Act, 1988³⁸. The agency shall be the enforcement Agency for environmental standards, regulations, rules, laws, policies and guidelines. The Agency is also charged with the protection and development of the environment,

³⁵ S 1 (1) ONWA

³⁶ S. 5 ONWA

³⁷ Section 2 of NESREA Act

³⁸ Section 36 NESREA Act

biodiversity, conservation and sustainable development of Nigeria's natural resources in general and environmental technology, including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.³⁹ Section 8 gives the Agency enforcement powers.

The Act restricts the powers of the Agency by the use of the phrase "other than in the oil and gas sector" in the description of its functions and powers. By section 7(g) of the Act, the Agency is conferred with the powers to "enforce compliance with regulations on the importation, exportation, production, distribution, storage, sale, use, handling and disposal of hazardous chemicals and waste other than in the oil and gas sector". Section 8(g) provides that the Agency can conduct public investigations on pollution and the degradation of natural resources, except investigations on oil spillage.⁴⁰ There is an urgent need to amend the NESREA Act because a huge volume of environmental pollution in Nigeria comes from the oil and gas sector.

4.1 National Oil Spill Detection and Response Agency (NOSDRA) Act, 2006⁴¹

The NOSDRA Act empowers the agency to manage the National Oil Spill Contingency Plan (NOSCP) and take responsibility for detecting and clearing up oil spills in Nigeria.⁴² Prior to the establishment of this Act, the responsibility for the control of oil and gas pollution was exclusively borne by the Oil and Gas Pollution Control Unit in the

³⁹ See Section 7 NESREA Act

⁴⁰ Section 29 NESREA Act

⁴¹ Cap N157 LFN 2004

⁴² Preamble to the NOSDRA Act 2006

Department of Petroleum Resources. The main responsibility is to coordinate oil spill management and the oil spill contingency plan for Nigeria in conformity with the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) 1990, to which Nigeria is a signatory.⁴³ NOSDRA is to undertake surveillance, reporting, alerting and other response activities relating to oil spillage and to identify high-risk priority areas in oil-producing areas, as well as ensure compliance of oil industry operations with all existing environmental laws.⁴⁴

The Act provides that an oil spiller must report the spill to the Agency in writing within 24 hours of the spill, in default of which the offender is to pay a fine of five hundred thousand naira (₦500,000) for each day of the failure to report the spill.⁴⁵ The spiller is also duty-bound to clean the impacted site, including remediation, and in default, he will pay a further sum of one million naira (1,000,000) only as a fine. A major lapse of the Act is the omission of a fine for a deliberate report of a false quantity of oil spilled, as the spiller may report a lesser quantity of oil spilled to attract a lesser penalty. Also, the penalty provision is criticized for the omission of a fine for oil spillage; the only provisions are the “fine for failure to report occurrence of oil spill within 24 hours” and “failure to clean up the impacted site”.⁴⁶

4.2 Federal Ministry of Environment

⁴³ S. I of the NOSDRA Act, 2006, the NDSCP is a blueprint for checking oil spills through containment, recovery, and

remediation, restoration of all impacted sites to the best practicable extent. It is a mechanism for preventing

loss of lives, assets and natural resources.

⁴⁴ S. 7(b) NOSDRA Act

⁴⁵ S 6(2) NOSDRA Act

⁴⁶ S 6(2) and (3) NOSDRA Act

The Federal Ministry of Environment coordinates Nigeria's environmental governance at the federal level; it is responsible for developing national environmental policy, coordinating Nigeria's participation in international environmental fora, and reviewing and approving Environmental Impact Assessment (EIA) reports for major development projects. It has the duty of overseeing environmental agencies such as the National Environmental Standards and Regulations Enforcement Agency (NESREA) and the National Park Service (NPS).

4.3 Niger Delta Development Commission (NDDC)

NDDC is a Federal government Agency established in 2000 by the NDDC Act⁴⁷ with powers to implement policies for the development of the Niger Delta Region and protection of the region from environmental degradation, among others. The NDDC was established in response to the agitations of the Niger Delta region citizens who confronted the Nigerian government and multinational oil companies (MOCS) on the issue of environmental degradation and pollution from the MOCS that left the region in a deplorable state. Section 7(1)(h) of the NDDC Act provides for the functions and powers of the Commission, including its environmental functions.⁴⁸ Section 7(1) (h) of the NDDC Act specifically provides that the NDDC shall tackle ecological and environmental challenges that arise from the exploration of oil and minerals in the Niger Delta area and advise the Federal Government and the Member States on the prevention and control of oil spillages, gas flaring and environmental pollution.⁴⁹

⁴⁷ Niger Delta Development Commission (Establishment) Act Cap N 86 LFA 2004 (hereinafter NDDC Act)

⁴⁸ Section 7 NDDC Act

⁴⁹ Section 1 NDDC Act

4.4 Other Extant Regulatory Laws

There are some other extant laws that regulate the protection of the environment in Nigeria, and some of them will be considered in this research. The Petroleum Industry Act 2012 replaced both the Petroleum Act⁵⁰ and the Associated Gas Reinjection Act. Section 104 of the Act prohibits gas flaring, and Section 107 confers powers on the Commission or Authority to grant permits to companies to flare gases where it is necessary for facility start-up or for effective functional purposes, which may include testing. Another environmental regulation is the Oil Spill and Oil Waste Management Regulations (OSOWMR) 2011; this regulation requires facility owners to have in place a Spill Prevention, Control and Countermeasure Plan (SPCCMP) as well as an Oil Spill Contingency Plan (OSCP) to be approved by the Agency.⁵¹ The Hydrocarbon Oils Refineries Act (HORA), 1965, the major focus of this Act is the taxing of petroleum refining⁵² activities. The Minister, in making regulations for the purposes of taxing hydrocarbon oils refined in premises, can also consider environmental concerns. The Act prohibits the refining of petroleum products in unlicensed premises.⁵³ Climate Change Act, 2021 has its main focus on the reduction of gas emissions into the atmosphere. It aims at reducing carbon emissions to zero level.⁵⁴ The Act empowers the courts to entertain suits in respect of violations of the provisions of the Act or other acts inimical to the environment and shall accordingly grant orders stopping the contraventions or for the payment of compensation to those already affected by the anti-environmental conduct.

⁵⁰ Cap 10 LFN 2004

⁵¹ Regulation 4 of the Oil Spills and Oil Waste Management Regulations, 2011

⁵² Preamble to the Hydrocarbon Oils Refineries Act, Cap HS, LFN 2004

⁵³ Section 28 (2) (3) Hydrocarbon Refineries Act, LFN 2004

⁵⁴ Section 34 (2) (a)- (c) Climate Change Act, 2021

5. CHALLENGES TO EFFECTIVE ENFORCEMENT OF ENVIRONMENTAL LAWS IN NIGERIA

There are identifiable challenges to effective enforcement of environmental laws in Nigeria. Despite the avalanche of environmental laws in Nigeria, the country is still encountering degradation; the effective enforcement of these laws is hampered by some of the challenges discussed below:

5.1 Corruption

Corruption has eaten deep into the fabric of virtually every sector in Nigeria; bribery and corruption are evident in the private and public sectors of Nigeria, and funds meant for the environmental sector are embezzled. Corruption within the regulatory agencies hampers the effective enforcement of environmental laws. When the regulatory bodies are compromised by corrupt practices, companies are able to bypass penalties for environmental violations through bribery and taking advantage of legal loopholes. Corruption is reprehensible and destructive; law enforcement agencies are underfunded, and they take bribes to survive.

5.2 Lack of Public Awareness and Participation

Many citizens in Nigeria are not aware of their rights to a healthy environment. The general public is ignorant of their capacity to hold polluting industries accountable and press for stricter enforcement from regulatory authorities. In case of an oil spill, the community affected should be able to demand compensation or remediation. Apathy towards environmental laws by victims of their infraction and the enforcement agencies has resulted in widespread environmental impunity.

5.3 Judicial Constraints

Judicial constraints are greatly impairing the enforcement of environmental laws. The non-justiciability of environmental provisions within the 1999 Nigerian Constitution, particularly those outlined in Section 20, means that citizens cannot directly seek judicial relief for violations. Judicial jurisdiction is also an impediment; many environmental cases in Nigeria are lost, particularly on appeal, for want of the court's jurisdiction because only the Federal High Court, as against the State High Courts, has the exclusive jurisdiction to try almost all environmental cases.⁵⁵ There is always a high accumulation of cases in the Federal High Courts because they lack the numerical capacity and logistics to handle all environmental cases; also, they are not proximate to the litigants.

*SPDC V Isaiah*⁵⁶ and *C.E.G. (Nig) Ltd. V Amaewhule*⁵⁷ are a few of those cases where the litigants instituted actions at the State High Courts only to be frustrated on appeal for want of jurisdiction after many years of litigation.

5.4 Lack of Funding

Funding limitations significantly impede the ability of the environmental law enforcement agencies to perform their duties. NESREA and other agencies often operate under inadequate budgetary allocations, restricting their capacity to acquire necessary monitoring equipment, employ skilled personnel, and undertake field inspections.

5.5 Political Interference

⁵⁵ S 251(1)(n) and Second Schedule Part 1 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). See Section 7 of the Federal High Court Act, Cap F12 LFN 2004

⁵⁶ (1997) 6 NWLR 508,238

⁵⁷ (2006) 3 NWLR 967,284

Political interference often undermines the enforcement of environmental laws; the overreliance of the government of Nigeria on oil for its foreign exchange earnings has greatly hampered its political will to enforce environmental laws against the errant oil companies. Despite the fact that these big national and multinational companies are the greatest polluters of the environment, in cases involving oil spills and pollution against them, the enforcement agencies are under pressure to delay investigation or reduce penalties, compromising the effectiveness of environmental statutes. This occurs because the government is more concerned with profit maximization than taking necessary precautions against environmental degradation.

5.6 Jurisdictional Overlap

There have been conflicts among the environmental law enforcement agencies because of the overlapping and non-specification of their responsibilities. This often results in confusion and inefficiencies in environmental governance. This leads to regulatory overlaps and inefficiency. For example, NESREA, a foremost environmental law enforcement agency, is excluded from the oil and gas sectors, despite the enormous harm caused by activities in this industry. There are many environmental issues that are not adequately addressed, and this impedes a cohesive regulatory framework.

6.0 CONCLUSION AND RECOMMENDATIONS

This paper has critically examined the legal and institutional frameworks that guard enforcement of the environmental laws of Nigeria. Though the list of extant laws is not exhaustive, it can be vehemently stated that if the existing laws are effectively implemented and the agencies function optimally, the degradation of our environment will be reduced and a healthier biodiversity will be guaranteed. Many of Nigeria's environmental laws have remained sterile, while other countries are improving the means of tackling their

environmental challenges. There is a need to embark on some reforms to improve the enforcement of environmental laws in Nigeria; this research therefore makes the following recommendations:

For the effective enforcement of the environmental laws in Nigeria, there is an urgent need for the reforms of some of our laws as they relate to the environment, particularly Section 6 (6) (c) of the 1999 Constitution, which should be amended in order to make the provisions of Chapter Two of the Constitution justiciable. The provisions of Chapter Two constitute rights under international law to which Nigeria is a signatory, and some have been domesticated by virtue of Section 12 of the Constitution. The non-justiciability of Chapter Two has almost rendered Section 20, which is a vital constitutional provision on environmental rights, unenforceable.

It is suggested that the agencies responsible for the enforcement of environmental laws should be purged at all levels. This will curb the incidental challenge of corruption.

The public should be able to scrutinize the enforcement activities of the agencies and ensure necessary punishments are meted out to the violators of environmental laws; this will curb bribery, and the officials of the agencies will be held accountable.

Furthermore, the regulatory agencies should be strengthened; they should be adequately funded, as inadequate funding has grossly hampered their performance.

The jurisdiction of some of the institutions needs to be expanded; for example, NESREA lacks jurisdiction over some vital matters in the oil and gas sector. Also, the overlaps in jurisdictions weaken the enforcement agencies. A well-coordinated approach among these

agencies, with cohesive operations, will ensure that enforcement of environmental laws is better regulated.

The limited public awareness of environmental laws and rights impedes citizens' capacity for redress; the awareness apparatus should be enhanced to strengthen enforcement efforts. Educational campaigns and community outreach programmes should be embarked upon, as this would sensitize citizens to monitor compliance with environmental regulations and support policy reforms.

The government should expand the jurisdiction of the State High Courts to adjudicate over environmental matters; this will reduce the congestion of environmental cases which last for years in the Federal High Courts. The courts should be statutorily empowered to award penalties that are stricter; such sanctions should be proportionate to the environmental damage. The case of *Shell Petroleum Development Co. Ltd. v Farah*⁵⁸ illustrates the need for judicially enforceable remedies that hold companies accountable and incentivize compliance.

⁵⁸ (1995) 3 NWLR (382) 148