

Assessing the Effectiveness of Nigeria's Legal Framework in Controlling Oil and Gas Pollution: Challenges and Recommendations

Majebi Samuel Amune, Ph.D^{1*}

¹LL.B. (University of Benin); LL.M., M.Phil., Ph.D (Obafemi Awolowo University) Senior Lecturer, College of Law, Joseph Ayo Babalola University, Ilesa, Osun State, Nigeria & Principal Partner, Nobleheirs Legal Consult

DOI: <https://doi.org/10.36348/sijlcj.2025.v08i01.001>

| Received: 11.12.2024 | Accepted: 16.01.2025 | Published: 20.01.2025

*Corresponding author: Majebi Samuel Amune

LL.B. (University of Benin); LL.M., M.Phil., Ph.D (Obafemi Awolowo University) Senior Lecturer, College of Law, Joseph Ayo Babalola University, Ilesa, Osun State, Nigeria & Principal Partner, Nobleheirs Legal Consult

Abstract

Oil and gas pollution poses significant environmental and health risks to communities in Nigeria, particularly in the Niger Delta region. Despite the devastating impacts of pollution, Nigeria's legal framework for controlling oil and gas pollution has been criticized for being inadequate and ineffective. This article undertook a critical appraisal of the legal measures for the control of oil and gas pollution in Nigeria. The article examined the relevant international, regional, and national laws and policies governing oil and gas pollution in Nigeria, including the International Convention on Oil Pollution Preparedness, Response and Cooperation, the African Convention on the Conservation of Nature and Natural Resources, and the Nigerian Oil and Gas Industry Content Development Act. The article critiques the strengths and weaknesses of these laws and policies, highlighting gaps and inconsistencies that hinder effective pollution control. The article also analyzed the institutional framework for pollution control in Nigeria, including the roles and responsibilities of regulatory agencies such as the National Oil Spill Detection and Response Agency and the Department of Petroleum Resources. The article argued that while these agencies have made efforts to control pollution, they are often hindered by inadequate funding, lack of capacity, and conflicting mandates. Furthermore, the article examined the impact of oil and gas pollution on local communities in Nigeria, highlighting the human rights implications of pollution and the need for effective remedies and compensation. The article concluded by proposing recommendations for strengthening the legal framework for pollution control in Nigeria, including the adoption of more stringent regulations, the enhancement of institutional capacity, and the provision of effective remedies for affected communities.

Keywords: Oil and gas pollution, Nigeria, legal measures, pollution control, environmental law, human rights.

Copyright © 2025 The Author(s): This is an open-access article distributed under the terms of the Creative Commons Attribution 4.0 International License (CC BY-NC 4.0) which permits unrestricted use, distribution, and reproduction in any medium for non-commercial use provided the original author and source are credited.

1. INTRODUCTION

Nigeria's national policies and legal framework on environment ought to be founded on the goals of protecting the environment generally, to secure the quality of the environment for health, wellbeing of Nigerians wherever they are within the confines of the nation; to conserve and use the environment and natural resources therein for the benefit of the present and future generations and to restore, maintain and enhance the ecosystem and ecological processes essential for the functioning of the biosphere to preserve biological diversity and the principle of optimum sustainable yield in the use of natural resources.

The discovery of oil in commercial quantity in Nigeria has led to the influx of oil companies into the country, and through the exploration and production activities of the oil companies, sometimes, pollution of

the environment occurs, either through direct spillage, in the process of production, oil products' leakage from ship, storage vessels or production walls, gas flaring, disposal of used oil or by deliberate illicit oil dumping by the oil companies.

This work examines whether the laws and subsidiary legislations for the control of oil and gas pollution in Nigeria are adequate enough to achieve the goals of securing quality environment for the health and well being of Nigerians wherever they are within the confines of the nation.

2. Oil and Gas in Nigeria

The oil and gas sector is the sector consisting of business concerns engaged in production (or drilling), storage, treatment, refining, transportation, distribution and sale of oil and gas. Oil and gas, here includes crude

oil or petroleum, its various refined products like gasoline, naphtha, kerosene, lubricants, distillate fuel oils, etc [1].

Oil and gas is the primary industry in Nigeria and it provides enormous foreign exchange earnings and source of energy. Nigeria is the world's 11th largest producer of oil with a current output of 2.2 million barrels per day (mbpd) of quality crude [2] "The oil and gas industry defines Nigeria, and Nigeria is defined by the oil and gas industry. It is trite that the oil and gas industry heavily impact upon the political, economic and social pillars upon which this nation stands as a country, in diverse dimensions, some very good and several others giving serious cause for concerns. One of such is the adverse consequences of the oil and gas industry's operations on the nation's/global environment" [3]. About 75% of Nigeria's revenue is from oil and gas extraction and drilling, while 95% of her total export is also from oil and gas [4]. The discovery of oil in commercial quantity in Nigeria and its use has created at least three major Industries: the exploration, production and refinery industry, which search for, find, produce crude oil and then break down crude oil into a number of products, including diesel, petrol and specialty oils; the oil and gas tanker industry, which transports crude oil and refined products to the end users; and the petrochemical industry, which takes crude oil-derived hydrocarbons as feedstock and converts them into a range of everyday products that are used in our modern societies.

The oil and gas industry in Nigeria essentially consists of the downstream, the upstream and the servicing companies. The industry's downstream major players are: Shell Petroleum Development Company Ltd. (SPDC)... 42.2%; Mobil Producing Nigeria Unlimited...21.2%; Chevron Texaco...21.2%; Agip Oil Company Nigeria Ltd...7.5%; Elf Nigeria Ltd...6.1%; Others, i.e. Dubril Oil (Nigeria), Conoil (Nigeria), Ashland (US), Pan Ocean (Switzerland), Statoil (Norway), Conoco (US), British Gas (Britain), NLNG (Nigeria), etc...1.7% [5].

The major players in the upstream oil industry in Nigeria are: Mobil Oil Nigeria; Total Nigeria Ltd.; Texaco Nigeria Ltd.; Africa Petroleum (AP); Unipetrol Nigeria Ltd.; Conoil ... and over 100 small independent marketers [6].

The Servicing Companies are essentially enterprises in the oil and gas sector which provide services to the oil producing companies in activities areas such as seismic survey, drilling, logging, interpretation of data collected from oil fields, transport, waste disposal, etc [7].

3. Oil and Gas Pollution

The definition of oil and gas pollution is being taken from the context of the definition of pollution. To pollute is to make unhealthily impure, corrupt or make unclean [8]. The Black Law's Dictionary defines "polluting" as:

"To corrupt, defile or the contamination of soil, air or water by noxious substances or noises [9]".

The Criminal Code Act of Nigeria [10] does not provide a definition of pollution per se but states that:

"Any person who corrupts or fouls the water of any spring, stream, well, tank, reservoir, or place so as to render it less fit for the purpose for which it is ordinarily used, is guilty of a misdemeanour, and is liable to imprisonment for six months [11]".

National Environmental Standards and Regulations Enforcement (Establishment) Act of Nigeria (NESREA) defines pollution as:

"Man-made or man-aided alteration of chemical, physical or biological quality of the environment beyond acceptable limits and 'pollutants' shall be construed accordingly [12]".

This definition recognizes the role of man as an agent in the process of pollution of the environment. This is in tandem with the definition of pollution contained in the preamble to the United Nations Convention on the Law of the Sea:

"Introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in deleterious effects as harm to living resources, and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of

¹ Yinka Omoregbe, (2003), Oil and Gas in Nigeria simplified, Malthouse Press Ltd, Lagos, p.4

² Okorodudu-Fubara, M.T. (2011), The environmental issues in the Nigerian Oil and Gas Industry: Pollution Control and Management. Paper presentation at a retreat in Calabar, Cross River State of Nigeria for Committees in the House of Representatives vested with oversight responsibilities in the oil and gas industry. p. 1.

³ Okorodudu-Fubara, M.T. *ibid.* p. 2.

⁴ History of OPEC, June, 2017, OPEC Website, p. 12.

⁵ Okorodudu-Fubara, M.T. *ibid.* p. 3.

⁶ Okorodudu-Fubara, M.T. *ibid.* P. 3

⁷ Okorodudu-Fubara, M.T. *ibid.* P. 3

⁸ Webster's Dictionary (1991) at 778.

⁹ 8th edition at 1197.

¹⁰ Cap C38 LFN 2004.

¹¹ See s 245.

¹² S 37 of the NESREA Act No 27 2007.

quality for use of sea water and reduction in amenities [13].”

The above quotation is a definition of pollution of the marine environment. The definition is a mirror of the definition of marine pollution provided by the United Nations Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP). Marine pollution is defined as;

“The introduction by man, directly or indirectly, of substances or energy into the marine environment which results or is likely to result in harm to living resources, hazards to human health, hindrance to marine activities and impairment of the quality of sea-water and reduction in amenities [14].”

From the foregoing, oil and gas pollution, therefore, may be described as corruption, defilement or the contamination of soil, air or water by oil and gas substances. Oil exploration and production projects have impacts on the natural environment even long before any oil is actually produced. These are complex, multi-faceted projects, with many different phases, including: land survey, land clearance for seismic lines, establishment of seismic and drilling camps, site preparation, infrastructure construction, drilling for oil (even when the effort is unsuccessful) and development of transportation infrastructure. Once a facility begins operating other issues have to be dealt with such as spills caused during oil production and the disposal of water (often salty and known as ‘produced water’) and flaring of gas (‘produced gas’) generated alongside the oil. All of these activities and their effects leave an environmental footprint [15].

Clearly, pollution is engendered on the environment by the activity of man as an agent of change. It is brought upon the environment as a consequence of the transformation of the environment through the production of matter or energy. In effect, pollution is an inevitable consequence of development and growth brought about by the action of humans.

Oil pollution can occur in several ways. It can occur from natural seepage of hydrocarbons in areas where petroleum is found in shallow reservoirs. It can also occur through accidental spillage of crude oil on the ground. Once hydrocarbons come into contact with the

soil, they alter its physical and chemical properties. The degree of alteration depends on the soil type, the specific composition of the hydrocarbon spilled and the quantity spilled. In the least damaging scenario, such as a small spill of a volatile hydrocarbon onto dry sand, the hydrocarbons evaporate fast, causing no chemical or physical damage to the soil. In other situations, for example a spill of heavy oil onto clay soil, the chemicals can remain within the soil for decades, altering its permeability, causing toxicity and lowering or destroying the quality of the soil. In such circumstances, the soil itself will become a source of pollution [16].

4. Causes of Oil and Gas Pollution

Causes of oil and gas pollution are numerous. Many factors may cause it. Some of these factors may be on-shore causes such as rot of equipment, equipment failure, sabotage, human errors, corrosion, blowouts, engineers errors or acts of third parties. Oil and gas pollution also occur through offshore spills. The spills occur most of the time through natural causes or actions of man by deliberate discharge of oil by tankers on high sea on the occurrence of tanker rupture and leakage, accident of oil tankers, equipment failure or malfunction or deliberate discharge of oil from a leaking tanker to save life. In *Oversea Tankship (UK) Limited v. Morts Docks and Engineering Limited (The Wagon Mound No. 1)* [17], the appellants were the owners of a ship called Wagon Mound. While the ship was taking on furnace oil in Sydney harbour, the appellants’ servants negligently allowed oil to spill into the water where the respondent’s servants were carrying out welding operations, set fire to some cotton waste floating on the oil beneath the wharf. The waste, in turn, set fire to the oil and in the ensuing conflagration, the wharf was severely damaged. The oil also found its way into the respondent’s ship way adjoining the wharf and interfered with the respondent’s use of the ship. Although, the appellants were held not liable for reasons of remoteness of damage, yet this situation shows one of the causes and effects of oil pollution.

The cause, sometimes, may also be natural such as flood from excessive rain, strong wind or erosion and so on. Neglect of equipments may also play a major role in the causes of oil and gas pollution. For instance, about seven thousand kilometers of oil pipelines laid are rusty and become “dangerous snakes” lying across our landscape [18]. The pipelines frequently rupture,

¹³ Art 1(4).

¹⁴ The definition adopted in 1970 by the United Nations Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) text found in UNESCO DOC.SC/MD/19, 1 June 1970 and cited with approval in several legal documents and in particular the United Nations Conference on the Human Environment held in Stockholm in 1972. See further Winston Anderson, *The Law of Caribbean Marine Pollution* 1997, 3 fn 1.

¹⁵ Report of the Environmental Assessment of Ogoni Land, Nigeria, (2011) by the United Nations Environmental Programme (UNEP), p. 28.

¹⁶ <http://www.unep.org/disastersandconflicts/where-we-work/nigeria/what-we-do/environmental-assessment-ogoniland-report>. Retrieved on Saturday, 09/11/2024.

¹⁷ (1961) AC 388.

¹⁸ *Ibid*, p. 50.

spewing crude oil across the land and water. According to the Nigerian Government, 6,817 oil spills occurred in the Niger Delta between 1976 and 2001 [19] (about one a day for 25 years).

Apart from the above, oil deposits are often accompanied with natural gas that escapes from the ground when the oil is pumped. Although, it is possible to capture this escaping gas and either re-inject it into the ground or collect it for sale, the oil companies operating in Nigeria choose, instead, to simply burn the gas off. As a matter of fact, gas flaring has been a standard practice, in Nigeria, since oil production began [20] As a result of this, most of the oil wells in Nigeria are set on ranging flame that burns escaping gas twenty four hours a day, reaching hundreds of feet into the sky, and thereby killing the surrounding vegetation with soaring heat, smoke, soot and toxic chemicals into the air along with a potent mixture of greenhouse gases [21]. Devastating environmental effects of this practice have led many other countries of the world to reduce gas flaring to a bare minimum. In the United States of America, less than half of one percent of extracted natural gas is flared [22]. In the Eastern Europe, the rate is less than one percent [23]. This is not the case in Nigeria where the amount of gas wasted through flaring and the magnitude accompanying environmental destruction is staggering. Nigerian oil communities produce 2.5 million barrels of crude oil every day, and most of the associated 2.5 million cubic feet of natural gas is burnt off into the atmosphere. In 2001 alone, forty percent of all the natural gas burnt throughout Africa was traceable to flaring in Nigeria [24]. It has been estimated that Nigeria's gas flaring contributes more greenhouse gases to the atmosphere than oil of sub-Sahara Africa combined [25].

Sabotage is another cause of oil and gas pollution. Sabotage of oil equipment and installations is a willful damage not anticipated by oil industry. This act may lead to aggravated oil spills thereby resulting in pollution of a particular community. In *A. Aturu & ors. v. Shell BP Nigeria Ltd* [26]. Ovie Whiskey J, as he then was, dismissed the Plaintiff's claim for ₦8m as damages for oil spill which resulted from 9 holes of about 1/8 to

1/6 of an inch in diameter which was expertly drilled into the pipeline by unknown mischievous third party over whom the Defendant had no control.

Waves, winds or erosion may also transfer or blow discharged pollutant from one area to another, thereby resulting in some dimension of pollution. In *South port Corporation v. Esso Petroleum* [27], the Defendant's tanker became stranded in the estuary of the River Ribble. The master of the tanker discharged oil into the water in order to refloat the ship. Wind waves and tide took the oil onto the Plaintiff's foreshore and caused damage. The Plaintiff sued the Defendant in trespass, negligence and nuisance, alleging that the strandedness of the ship was caused by faulty navigation. The Defendant was held not liable. However, this case goes a long way to show causes and effects of oil pollution.

Other possible causes of oil and gas pollution include improper separation of oil and water by separators in crude oil production, seismic survey, oil well testing, pipelines laying and rupture of loading hoses [28].

5. Effects of Oil and Gas Pollution

Oil and gas pollution produces physical and biological effects that may be mild or lethal [29]. The physical issues are things we can see such as when oil spills into the sea and coats everything it touches. It fouls boat hulls, piers pilings and shore structures. It kills fish and birds and spoils the beauty of nature. It also makes the beaches unusable. In addition to the destruction of the aesthetic effects of beaches, clean-up operations are costly and time consuming. The clean-up operations may also involve using chemicals which are detrimental to the living organisms in the seas. In a report carried out by scientists on some Nigerian rivers to determine their water quality, it was revealed that water that was once rich in natural resource is rapidly becoming scarce in quantity (high demand) and the quality is deteriorating in many places as a result of pollution by oil and related substances. Owing to population increases, rapid industrialisation and rural-urban migration, much water is utilised for various purposes [30].

¹⁹ *Ibid*, p. 61.

²⁰ Gas Flaring in Nigeria: A Human Rights, Environmental and Economic Monstrosity (Climate Justice Programme and Environmental Rights Action/Friends of the Earth Nigeria)

²¹ Boele, R., Fabig, H., Wheeler, D. (2001). *Shell, Nigeria and the Ogoni: A Study in Unsustainable Development: I. The Story of Shell, Nigeria and the Ogoni People- Environment, Economy, Relationships: Conflict and Prospects for Resolution*. Sustainable Development, 9, 74–86.

²² Books and Writers. (2003). Ken Saro-Wiwa (1941–1945). Retrieved 9 November 2024 from <http://www.kirjsto.sci.fi/saro.htm>

²³ *Ibid*, p. 14.

²⁴ Gas Flaring in Nigeria: A Human Rights, Environmental and Economic Monstrosity (Climate Justice Programme and Environmental Rights Action/Friends of the Earth Nigeria)

²⁵ *Ibid*, p. 22.

²⁶ Suit No. UHC/48/73, Judgment of 25/11/74.

²⁷ (1954) 2, QB 182.

²⁸ Okorodudu-Fubara, M.T. *ibid*. p. 3.

²⁹ See Naval Advancement, integrated Publishing available at <http://www.tpub-products.com/archive/?..../subscript> accessed 15-10-2024.

³⁰ Sees the Report of the Environmental Pollution Research Unit (EPRU) of the Institute of Oceanography, University of Calabar prepared after conducting various tests to assess the water quality of the major tributaries

The biological effect of oil and gas pollution is the harm it does to humans and on the food chain of animals, birds, and marine life [31]. Pollution resulting from oil can destroy vegetation that produces food and shelter. It can seriously disrupt the balance of nature, and in extreme cases, cause the death of humans.

Oil spills have a major impact on the ecosystem. Large tracts of mangrove forests have been destroyed. An estimated 5–10% of Nigerian mangrove ecosystems have been wiped out either by settlement or by oil. Spills also take out crops and aquacultures through contamination of groundwater and soils. Drinking water is frequently contaminated, sheen of oil is visible in many localised bodies of water. If the drinking water is contaminated, even if no immediate health effects are apparent, the numerous hydrocarbons and other chemicals present in oil represent a carcinogenic risk. Offshore spills, which are usually much greater in scale, contaminate coastal environments and cause a decline in local fishing production. The inadvertent discharges of petroleum hydrocarbons into the environment often pose threats to human health, safety and the environment, and have significant socio-economic consequences. Oil and gas pollution is a serious issue and is of international importance. This is because negative effects of oil and gas pollution have far reaching impact on the environment, health, sociology and economy of people. Sometimes, it leads to a decrease in or even total destruction of the recreational value of beach areas and in some cases, there may be fire outbreak which can be extensive as to destroy properties [32]. The consequence of all these is great hardship to the inhabitants of the oil producing areas who become impoverished and deprived. For example, the Texaco oil well blowout at North Apo [33], in the Niger Delta on the 17th of January, 1980, caused the pollution of 2,230km of estuaries, lagoons, lakes, rivers, rivulets, creeks and other water courses. It rendered all sources of drinking water unsafe for human consumption. About 200,000 barrels of oil were lost and four villages, including the fish town of Funiwa, were polluted with oil. About 350 hectares of mangroves were destroyed by fire which resulted from the oil flow [34].

Similarly, there was the Abudu pipeline oil spillage which occurred on the 2nd of November, 1982 in which creeks and waterways which were used for

fishing, agricultural and domestic purposes were rendered useless, water flows obstructed and venerated lands defiled [35].

6. Critical Appraisal of the Legal Framework for the Control of Oil and Gas Pollution in Nigeria

The focus of this work is to examine the relevant legislations for the control of oil and gas pollution in Nigeria and point out the strengths and weaknesses of the legal framework and to make necessary recommendations for the goals of securing quality environment for the health and well being of Nigerians living within the confines of the nation.

6.1 Legislations

Section 20 of the Nigeria's Constitution, unequivocally, makes it an objective of the Nigerian State to protect and improve the environment and safeguard air, land, water, forest and wildlife of Nigeria [36]. The Constitution is supreme and renders every lesser law conflicting with it void to the extent of the inconsistency [37] Section 16(2) provides that the State shall direct its policy towards ensuring the promotion of a planned and balanced economic development. In a similar vein, Section 17(2)(d) provides that in furtherance of the social order, exploitation of human or natural resources in any form whatsoever for reasons, other than the goal of the community shall be prevented. Section 33 and 34 which guarantee fundamental human rights to life and human dignity respectively, have also being argued to be linked to the need for a healthy and safe environment to give these rights effect.

a. The Petroleum Act

The primary comprehensive piece of legislation regulating the exploration, production and distribution of petroleum in Nigeria is the Petroleum Act [38]. The Petroleum Act vests in the Federal Government, the ownership of petroleum resources in Nigeria. Under the Act, all activities ranging from exploration to production and distribution of crude oil and natural gas, may only be done with the consent of the Minister of Petroleum Resources. The Act does not have extensive provision for the control of oil and gas pollution. It merely vests discretionary powers on the Minister to make regulations, when necessary, for the prevention of pollution of water courses and the atmosphere [39]:

that drain into the Cross River estuary (1989) by F Asuquo, (Ajayi and Osibanjo) 1981, (Adeniyi and Mbagu) 1983, (Imevbore) 1970, (Asuquo) 1989, Environmental Pollution of the Great Kwa River at Calabar, Nigeria: A case study. *Journal of Applied Sciences in Environmental Sanitation*, 6(3) 287-298.

³¹ Naval Advancement op cit.

³² The fire at Badagry road terminus of the Lagos ferry service in which a ferry was seriously damaged and the other requiring some weeks of repair work had been

traced to spilled oil from bunkering vessels abandoned on the Lagoons

³³ (Otherwise known as Funiwa 5)

³⁴ Ramani Abah, "Texaco Oil Blowout" – Survey and Report (2000), p. 35.

³⁵ *Ibid*, p. 48.

³⁶ The environmental objective of Nigeria

³⁷ Section 1(3) of The Constitution of the Federal Republic of Nigeria, 1999, as amended.

³⁸ Cap P 10 LFN, 2004.

³⁹ *ibid*. Section 9 (1) (a) (b) (!!!)

“The Minister may make regulations prescribing anything requiring to be prescribed for the purposes of this Act, providing generally for matters relating to licenses and leases granted under this Act and operations carried on there under, including the prevention of water courses and the atmosphere.”

This provision gives so much discretion to the Minister who may or may not exercise such discretion. The Petroleum Act contains no clear-cut sanctions for pollution of the environment with oil and gas. This legislative attitude confirms the insensitivity and lack of concern to the negative impact that petroleum exploration and production may have on the citizens and the environment.

b. The Petroleum (Drilling and Production) Regulations

By the power conferred on the Minister by the Petroleum Act [40], the Petroleum (Drilling and Production) Regulations were made. The Regulations also contain little provisions on pollution. The central interest of the Regulations was the control of the storage, transportation and marketing of petroleum products. However, the Regulations provide [41] that:

“the licensee or lessee shall adopt all practicable precautions, including the procurement of up to date equipment approved by the Directors of Petroleum Resources, to prevent pollution of inland waters, rivers, water courses, the Territorial Waters of Nigeria or the High Seas by oil, mud or other fluid or substances which might cause harm or destruction to fresh water or marine life and where any such pollution occurs or has occurred, shall take prompt steps to control, and, if possible, end it.”

The Regulations [42] enjoin the operators in the oil industry to carry out operations in accordance with good oil field practices, and to take reasonable steps to control the flow and prevent the escape of waste from relevant areas.

There is provision for confinement of petroleum by using approved methods and practices acceptable to the Head of Petroleum Inspectorate for confining the petroleum obtained from the relevant areas in tanks, gas holders, pipes, pipelines or other receptacles constructed for that purpose [43]. The Regulations also place restrictions on licensees from using land within fifty yards of any building, dam, reservoir, public road, etc

[44]. The Regulations also prohibit, without lawful permission, the cut down of trees in forest reserves [45].

c. Petroleum Refining Regulations

These Regulations require the Manager of a refinery to take measures to prevent and control pollution of the environment [46] and to makes any contravention punishable with a fine of N100 or an imprisonment term of six months [47].

Other pollution related Regulations made pursuant to the Petroleum Act include the mineral oil safety regulations and the crude oil transportation and shipment regulations. These Regulations merely prescribe precautions to be taken in the production, loading, transfer and storage of petroleum products to prevent environmental pollution.

Though the above explained Regulatory provisions appear attractive, they are merely directory. They are not stringent. They lack a bite and are loosely worded. They, either, contain no penalty for oil and gas polluters or impose low legal obligations or specify vague penalties that may be considered ineffective. The imposition of a fine of N100 or six months imprisonment is not intimidating enough to deter a would be polluter.

Importantly, there is no provision for clean-up operations in these Regulations. Though, it may be conceded that Regulations 25 of the Petroleum (Drilling and Production) Regulations require the operators in oil and gas industry to control a spillage and where it occurs, to end it, yet, it is observed that this can hardly be interpreted to cover responsibility for clean-up. The responsibility of removing the polluting substances and that of restoring the polluted environment to its earlier pollution free environment are left unspecified.

d. The Oil in Navigable Waters Act

The Oil in Navigable Waters Act [48] is another regulatory statute for the control of oil and gas pollution in Nigeria. The Act was enacted in response to international conventions and other relevant international initiatives and actions. The importance of this Act in the control of oil pollution in Nigeria is not misplaced because it is a product of intervention of international government and the Nigerian government to specifically control oil pollution of waters. As a result of the geographical separation of the regions of major production of crude oil and region of high consumption and utilization of same, crude oil has to be transported in ships, by rail and through extensive pipelines from producing to consuming areas. In the process of its transportation, spillage in varying magnitude does occur.

⁴⁰ Ibid. Section 9.

⁴¹ Regulations 25

⁴² Ibid. Regulations 37.

⁴³ Ibid. Regulations 40

⁴⁴ Regulation 17 (1) (b)

⁴⁵ Ibid. Regulation 23 and 27

⁴⁶ Regulations 43 (3)

⁴⁷ Section 45

⁴⁸ Now Cap 06 LFN, 2004.

The international governmental bodies and Nigeria seek to eliminate such spillage, hence the enactment of the this Act which has now been codified as Cap 06 LFN, 2004.

The provisions of the Act [49] makes it an offence for any Nigerian ship to discharge oil, or any mixture mixed with oil, into the prohibited sea areas created under the International Convention for the Prevention of Pollution of the Sea by Oil of 1954 as amended in 1962. The prohibited sea areas are described, in detail, by the schedule to the Act. It is also an offence for any person to discharge oil or mixture containing oil into waters from any vessel, or from any place on land, or from any apparatus used for transferring oil fro or to any vessel (whether to or from a place on land or to or from another vessel).

The Act [50] creates an offence in circumstances whether the owner/master of the ship, or the occupier of land adjoining Nigerian waters, or the operates of apparatus for transferring oil, discharges oil into the Nigerian waters from the vessel, a place on land or his apparatus respectively. The Nigerian waters include the whole of the sea within the seaward limits of the Nigerian territorial waters and all other navigable inland waters [51]. The liability for the offences created by the provisions are also stated there under. This includes foreign ships and their masters who, by virtue of the Territorial Waters Act, 1967 [52] may be arrested and prosecuted under any law which they may have breached.

Where a Nigerian or foreign owned ship operating within Nigeria fails to install equipment considered suitable for the prevention or reduction of oil discharge, he will be committing an offence [53]. The equipment concerned areas may be specified by the Minister of Transportation.

It is also an offence for masters of Nigerian ships and both foreign and Nigerian owned vessels to fail to keep records of oil matters [54]. Three offences are involved under this provision. Firstly, masters of Nigerian ships exceeding gross tonnage of eighty are required to keep a log of their oil discharges, oil spills ballasting activities. Non compliance with this constitutes an offence [55] which is applicable to Nigerian ships only. Secondly, and this relates to both foreign and Nigerian owned vessels, detailed record of oil transfers to and from the vessels are required to be

kept. Failure to do this will constitute an offence [56]. The third offence under this provision is the making of fraudulent entries in connection with the first two offences [57]. This is relevant to the extent that it amounts to a cover up of information concerning oil pollution.

It is an offence for harbour authority to fail to provide oil reception facilities [58]. This provision applies to governmental agencies. The harbour authority [59] is required to provide facilities in harbours for the disposal of oil residues. Failure to provide such facilities is an offence. The creation of this offence recognizes the need for vessels to discharge oil in the process of ballasting and clean-up, and as such non provision of oil reception facilities will amount to active connivance in or precipitation of oil pollution.

The Act also makes failure to report presence of oil in harbour waters an offence [60]. It is recognized that the longer oil pollutants remain in water, the greater the damage to the marine environment. It is in recognition of this fact that a duty is imposed on relevant persons (owner or master of the vessel or the occupier of the place on land) to report to harbour authorities discharge of oil from vessels which is carried out for the purpose of preventing damage to the vessel or cargo, and in cases of accidental discharges of oil. This report has to disclose the cause and source of the discharge.

One major low point for the Act is that it permits the discharge of oil and other mixture into the waters under some circumstances. For example, the Act permits the discharge of oil and other dangerous mixture into the sea for the purpose of securing the safety of any vessel or cargo or saving life [61]. Therefore, if there is a discharge of oil or oil mixture, it is a defehce to prove (not even strictly) that the discharged substances were as a result of damage to the vessel, efforts to save cargo or life, and that practical steps taken were to prevent, stop or reduce the escape or discharge [62].

Another very low point and set-back to the Act, as an anti-pollution legislation is the provision contained in it which provides that no action can be brought under the Act except with the consent of the Attorney-General of the Federation [63]. This provision will not only cause delays in prosecution of cases under this Act, but will also dampen the enthusiasm of enforcement officers.

⁴⁹ Section 1 (1)

⁵⁰ *Ibid.* Section 3 (1).

⁵¹ *Ibid.* Section 3 (2)

⁵² Section 2 & 3

⁵³ *Ibid.* Section 5 (5)

⁵⁴ *Ibid.* Section 7 (1)

⁵⁵ *Ibid.* Section 7 (5).

⁵⁶ *Ibid* Section 7 (b).

⁵⁷ *Ibid.* Section 7 (5) (c).

⁵⁸ *Ibid.* Section (8) (8).

⁵⁹ The Nigerian Port Authority is the agency charged with the administration of the Nigerian sea ports. The Nigerian Port Authority Act, Cap N126 LFN, 2004.

⁶⁰ *Ibid.* Section 10

⁶¹ *Ibid.* Section 4

⁶² *Ibid.* Section 4 (2) (a).

⁶³ *Ibid.* Section 12.

e. Oil Pipelines Act

The Oil Pipelines Act [64] provides for a right of access for any licensee or an operator of an oil concession to construct pipelines for the purpose of transporting crude oil and gas. The Act [65] creates a civil liability on the person who owns or is in charge of an oil pipeline. He would be liable to pay compensation to anyone who suffers physical or economic injury as a result of a break or leak in his pipelines:

“ The holder of a licence shall pay compensation -

(a) to any person whose land or interest in land (whether or not it is land respect of which the licence has been granted) is injuriously affected by the exercise of the rights conferred by the licence, for any such injurious affection not otherwise made good; and

(b) to any person suffering damage by reason of any neglect on the part of the holder or his agents, servants or workmen to protect, maintain or repair any work structure or thing executed under the licence, for any such damage not otherwise made good; and

(c) to any person suffering damage (other than on account of his own default or on account of the malicious act of a third person) as a consequence of any breakage of or leakage from the pipeline or an ancillary installation, for any such damage not otherwise made good.

If the amount of such compensation is not agreed between any such person and the holder, it shall be fixed by a court in accordance with Part iv of this Act.

The Act also establishes that grant of licenses are subject to regulations concerning public safety and prevention of land and water pollution:

“For the removal of doubt it is hereby declared that the powers granted to the holder of a licence under this Act shall: be exercisable only subject to the provisions of this Act and of any other enactment or rule of law.”

The Act also establishes the grant of a licence subject to regulations concerning public safety and prevention of land and water pollution [66].

f. Oil Pipelines Regulations

Oil Pipelines Regulations is a piece of subsidiary legislation made pursuant to the Oil Pipelines Act [67]. The Regulations establish the requirement of environmental emergency plans [68]. They also make punishable any contravention with a fine of N500,000 and/or an imprisonment term of six months [69].

g. Associated Gas Re-Injection Act

The Associated Gas Re-Injection Act [70] deals with the gas flaring activities of oil and gas companies in Nigeria. The Act prohibits, without lawful permission, any oil and gas company from flaring gas in Nigeria [71] and stipulates the penalty for breach of permit conditions [72].

h. National Oil Spill Detection and Response Agency (Establishment) Act

This Act, which came into force in the year 2004, is a specialized and principal legislation on environmental protection in the oil and gas sector in Nigeria. It established the National Oil Spill Detection and Response Agency (NOSDRA) which has the responsibility to administer the Nigeria's National Oil Spill Contingency Plan (NOSCP) in compliance with the International Convention on Oil Pollution [73]. The Plan is a national system for responding promptly and effectively to all oil pollution incidents occurring in Nigeria. It presents a consensus opinion through the participation of all relevant stakeholders (local and international) in its preparation. It is for use by all operators in the Oil and Gas sector of Nigeria including all organizations involved in exploration, exploitation, production, transportation, handling and storage of petroleum products in response to Tiers 1, 2 and 3 oil spills. To this extent, NOSDRA has the task to prepare for, detect and respond to all oil spillages in Nigeria [74]. The Act also established the advisory, monitoring, evaluating, mediating and co-ordinating arm of NOSDRA known as the National Control and Response Centre (NCRC) [75]. The composition of the Governing Board and the mode of operation of the Agency in the event of major or disastrous oil spill [76] takes into account the multi-sectoral demand of environmental

⁶⁴ Cap 07, LFN 2004.

⁶⁵ Section 11 (5)

⁶⁶ Section 17(4)

⁶⁷ Regulation 4

⁶⁸ Regulation 9 (1) (b)

⁶⁹ Regulation 26

⁷⁰ Cap 20, LFN 2004.

⁷¹ Section 3 (1)

⁷² Section 4

⁷³ Section 5 of the NOSDRA Act; This is subsequently referred to as the Plan; the complete

document can be down loaded from the NOSDRA website; http://www.nosdra.org/tech_info.html, retrieved 02/12/24.

⁷⁴ Section 1, NOSDRA (Establishment) Act, Cap N157, LFN 2006

⁷⁵ Section 18, *ibid.*

⁷⁶ Section 2(1) &(2) provides for the establishment the Governing Board and equally lists the composition of the Board

protection in the oil and gas sector. The NOSDRA Act provides that the objectives of NOSDRA shall be to co-ordinate and implement the National Oil Spill Contingency Plan for Nigeria [77]. The National Oil Spill Contingency Plan [78] as may be formulated (or revised) from time to time, by the Federal Government.

The NOSDRA Act also specify and detail the functions [79] of NOSDRA as follows:

“The Agency shall be responsible for surveillance and ensure compliance with all existing environmental legislations and detection of oil spills in the petroleum sector [80]; receive reports of oil spillages and co-ordinate oil spill response activities throughout Nigeria; co-ordinate the implementation of the Plan as may be formulated, from time to time, by the Federal Government; co-ordinate the implementation of the Plan for the removal of hazardous substance as may be issued by the Federal Government; perform such other functions as may be required to achieve the aims and objectives of the Agency under this Act or any Plan as may be formulated by the Federal Government pursuant to this Act.”

Furthermore, the so-called special functions of the NOSDRA which are also for the attainment of the objectives are delineated [81] as follows:

The Agency shall – (a) ensure the coordination and implementation of the plan within Nigeria including within 200 nautical miles from the baseline from which the breadth of the territorial waters of Nigeria is measured; (b) undertake surveillance, reporting, alerting and other response activities as they relate to oil spillages; (c) encourage regional cooperation among member states of West African sub-region and in the Gulf of Guinea for combating oil spillage and pollution in our contiguous waters; (d) strengthen the national capacity and regional action to prevent, control, combat and mitigate marine pollution; (e) promote technical cooperation between Nigeria and member states of the West African sub-region; (f) facilitate – (i) the arrival and utilization in and departure from Nigeria of ships, aircrafts and other modes of transport engaged in responding to oil pollution incidents or transporting personnel, cargo, materials, and equipment required to deal with such an incident; and (ii) the expeditious movement into, through and out of Nigeria of personnel, cargoes, materials and equipment; (g)(i) The National

Control and Response Centre shall for the purposes of a Tier 3 Oil Spill response, undertake such functions as specified under Section 19 of this Act; (ii) the Director-General shall have power to co-opt all the Government Ministries and Agencies mentioned under the Second Schedule to this Act, in the Management of a Tier 3 or a major Tier 2 Oil Spill.

The Act [82] established the National Control and Response Centre (NCRC) as a subsidiary of NOSDRA to act as a report processing and response co-ordinating centre for all oil spill incidents in Nigeria; receive all reports of oil spillages from the Zonal offices and units of the Agency; and serve as the command and control centre for compliance monitoring of all existing legislation on environmental control, surveillance for oil spill detection and monitoring and coordinating responses required in Plan activation [83].

The NOSDRA Act went on to provide that the Agency shall act as the lead Agency for all matters relating to oil spills response management and liaise with the other Agencies for the implementation of the Plan, as contained in the Second Schedule [84]; cooperate with an oil spiller in the determination of appropriate measures to prevent excessive damage to the environment and the communities; expeditiously consider any proposal made for response effort by the oil spiller; mobilize internal resources and also assist to obtain any outside human and financial resources that may be required to combat any oil spill; and assist in the assessment of damage caused by an oil spillage [85].

The Ministries and Agencies which the Agency shall co-opt and collaborate with in the event of a major oil spill apart from her parent Ministry, the Federal Ministry of Environment are the Federal Ministries of Works; Health, Transport, Information; Water Resources, Agriculture and Rural Development, Communication, Aviation, Science and Technology and Defence; the Nigerian Institute of Oceanography and Marine Research, the National Emergency Management Agency, NIMET, the Oil producers Trade Section (OPTS) of the Lagos Chambers of Commerce, the Nigerian Police Force, State and Local Governments (involved); Non-Governmental Organizations, (NGOs) etc [86].

⁷⁷ Section 5, *ibid*.

⁷⁸ Section 5(a-n), *ibid*.

⁷⁹ Section 6(1)(a-e), *ibid*.

⁸⁰ Hence, the exclusion of oil and gas sector from the purview of the jurisdiction of National Environmental Standards and Regulations Enforcement Agency (NESREA) by the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, Cap N164 LFN 2007 – save as provided in Section 7(c) thereto, relating to enforcement of compliance with

the provisions of international instruments on environmental protection in the sector.

⁸¹ Section 7, *ibid*.

⁸² Section 18, *ibid*.

⁸³ Section 18(1) (a-c), *ibid*.

⁸⁴ The Second Schedule laid down the functions or duties of every stakeholder Ministry or Agency (Public or private) that will be co-opted and involved in the event of a major or disastrous oil spill.

⁸⁵ Section 19(3), *ibid*.

⁸⁶ Second Schedule to the NOSDRA Act.

CONCLUSION

The study concluded by proposing recommendations for strengthening the legal framework for pollution control in Nigeria, including the adoption of more stringent regulations, the enhancement of institutional capacity, and the provision of effective remedies for affected communities.

7. RECOMMENDATIONS

7.1 Harmonization of Legislations for the Control of Oil and Gas Pollution in Nigeria

There is the to harmonize the provisions of Petroleum Act, NNPC Act, NPA Act, NIMASA Act ONWA Act and the Merchant Shipping Act which are oil pollution control related with the provisions of NOSDRA Act and have just one legislation for the control of oil and gas pollution in Nigeria. NOSDRA Act should be wide, comprehensive and all encompassing enough to singly deal with all issues relating to the control of pollution in the oil and gas sector.

7.2 Adequate Funding of Oil and Gas Pollution Control Agency

The Federal Government should take a clue from the UNEP recommendations on funding if it is serious to tackle oil and gas pollution. NOSDRA or any parastatal or agency implementing Nigeria's National Oil Spill Contingency Plan or involved in the control of oil and gas pollution in the oil sector should not rely on the oil companies for funding, logistics or information on oil spill. It should be well funded so as to be able to carry out independent monitoring exercise and surveillance for the detection of incident of oil spill. Adequate and independent funding is also required for ensuring prompt clean up exercise in the occurrence of any tier of oil spill. In view of the foregoing, NOSDRA should have a yearly budget that will be jointly funded by the Federal Government and oil companies with adequate fund earmarked for the statutory activities of the agency

7.3 Establishment of a Centre of Excellence for Environmental Pollution Free Oil and Gas Sector

The Federal Government should take a clue from the UNEP recommendations and establish a centre of excellence for environmental pollution free oil and gas sector to provide a range of activities and services including training courses in environmental monitoring and restoration and ultimately become a model for environmental restoration, attracting international attention and build the capacity of government agencies to enable them to fulfil their mandates, through such actions as increasing human resources and equipment, and improving the technical skills of staff. The centre may also be used to mount a public awareness campaign

to improve the oil communities' understanding of the environmental and health impacts arising from oil and gas pollution.

7.4 Enforcement of Industry Best Practice in the Oil and Gas Sector

Oil pollution control or regulatory agencies must be such that will insist on best oil and gas production practice from the oil companies. It has also been observed that some of the oil companies operating in Nigeria have failed to adopt best practice for sustainable exploration and production of petroleum resources due to increased costs of complying with environmental regulations. The government and the multinational oil companies need to adopt environmental sound technologies and cleaner production processes as well as effective implementation of international legal framework to help mitigate the associated problems of environmental degradation and pollution. Oil companies are to be made to adopt best practices in the exploration and production of petroleum.

Although a comprehensive system of environmental regulations is now in place with the coming into force of the NOSDRA Act, yet environmental pollution associated with unsustainable petroleum exploration and production practice and operations has continued to persist under the Act [87]. Any oil company that fails in the adoption of best practice should be dealt with immediately to serve as deterrence to others. It also recommended that cancellation of licence or lease of a polluter as penalty for oil and gas pollution, as it is the case with some of our legislations for the control of oil and gas pollution, is too severe, and this may make it hardly feasible or realistic. It will never be invoked except where there are proven cases of disregard for life and property or violation of other provisions that may bother on national economic sabotage or that may be necessary in the interest of public policy.

7.5 NESREA should not be excluded from Oil and Gas Sector

Section 7 of the NESREA Act [88] expressly excludes oil and gas sector from the jurisdiction of NESREA while NOSDRA Act grants NOSDRA special jurisdiction over all environmental issues in the petroleum sector. NOSDRA, however has the mandate to involve other bodies, where necessary, in the enforcement and implementation of the Nigeria's National Oil Spill Contingency Plan and the enforcement of other environmental protection in the oil and gas sector. It is, therefore, recommended that since some other bodies are co-opted and involved in environmental

⁸⁷ Aniefiok E. Ite, Usenobong F. Ufot, Margaret U. Ite, Idongesit O. Isaac, Udo J. Ibok. (2006), Petroleum Industry in Nigeria: Environmental Issues, National Environmental Legislation and implementation, An Open Access and Academic Publisher, p. 21-37.

⁸⁸ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act Cap N164 LFN, 2007.

protection in the oil and gas sector, NESREA as the Agency responsible for National Environmental Standards which includes standards for air, water, etc, should also be involved in environmental protection in the oil and gas sector. As a matter of fact, NESREA should be more relevant in that sector which is a purely Federal matter than issues such as municipal waste or noise management which the state and the local governments can conveniently handle if adequately empowered. In view of this, the NOSDRA Act and the NESREA Act are recommended for amendment so as to empower and provide for NESREA to have a role in the oil and gas. However, such role should be as required and coordinated by NOSDRA.

7.6 Introduction of Definite and Enforceable National Gas Flaring Contingency Plan for Prohibition of Gas

Taking a clue from the formulation and implementation of the National Oil Spill Contingency Plan, the government should formulate an enforceable national plan for the gas subsector especially with regard to gas flaring in the oil and gas sector. Although, the intent and purpose of the Associated Gas Reinjection Act [89] is laudable, it is hereby recommended that the Act should be reviewed and amended in line with the recommended national gas flaring contingency plan in order to give the Act a bite. The recommended plan should contain and address the definite near date that gas flaring when gas flaring would be outlawed and effectively stopped in Nigeria. However, in the interim and even thereafter, a deterrent huge fine regime should be created as penalty for gas flaring. The deterrent fine should be so high and absolute as to make it highly uneconomical or unprofitable and therefore not advisable to flare gas and there should not be any exception or defense to gas flaring.

7.7 There Should be no Defense or Exception to oil Pollution

Oil and gas pollution should be made a statutory absolute liability offence in Nigeria. This will make it easier for victims of oil and gas pollution to succeed in court action, recover damages and get courts to compel clean-up and remediation by the polluter and on the. This will make the oil companies to be more careful, responsible and environmental conscious and cautious. The defenses and exceptions availed oil and gas sector polluter in the various legislations should be removed so as to make a polluter in the oil and gas sector responsible and liable for all the actions, inactions or negligence.

7.8 Sensitization of the Members of the Oil Producing Communities on the Hazard of Oil and Gas Pollution

There is the need for the Governments at all levels in Nigeria to sensitize the members of the oil producing communities on the evil, hazard and danger of

oil bunkering and vandalization of oil and gas producing facilities for economic reason or in protest against the government or oil companies and leading to oil and gas pollution of their communities. UNEP report [90] showed that some of the incidences of oil spill are traceable to the hand work of vandals from among the inhabitants of the oil producing communities.

REFERENCES

- ¹ Yinka Omoregbe, (2003), Oil and Gas in Nigeria simplified, Malthouse Press Ltd, Lagos, p.4
- ² Okorodudu-Fubara, M.T. (2011), The environmental issues in the Nigerian Oil and Gas Industry: Pollution Control and Management. Paper presentation at a retreat in Calabar, Cross River State of Nigeria for Committees in the House of Representatives vested with oversight responsibilities in the oil and gas industry. p. 1.
- ³ Okorodudu-Fubara, M.T. *ibid.* p. 2.
- ⁴ History of OPEC, June, 2017, OPEC Website, p. 12.
- ⁵ Okorodudu-Fubara, M.T. *ibid.* p. 3.
- ⁶ Okorodudu-Fubara, M.T. *ibid.* P. 3
- ⁷ Okorodudu-Fubara, M.T. *ibid.* P. 3
- ⁸ Webster's Dictionary (1991) at 778.
- ⁹ 8th edition at 1197.
- ¹⁰ Cap C38 LFN 2004.
- ¹¹ See s 245.
- ¹² S 37 of the NESREA Act No 27 2007.
- ¹³ Art 1(4).
- ¹⁴ The definition adopted in 1970 by the United Nations Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) text found in UNESCO DOC.SC/MD/19, 1 June 1970 and cited with approval in several legal documents and in particular the United Nations Conference on the Human Environment held in Stockholm in 1972. See further Winston Anderson, The Law of Caribbean Marine Pollution 1997, 3 fn 1.
- ¹⁵ Report of the Environmental Assessment of Ogoni Land, Nigeria, (2011) by the United Nations Environmental Programme (UNEP), p. 28.
- ¹⁶ <http://www.unep.org/disastersandconflicts/where-we-work/nigeria/what-we-do/environmental-assessment-ogoniland-report>. Retrieved on Saturday, 09/11/2024.
- ¹⁷ (1961) AC 388.
- ¹⁸ *Ibid.*, p. 50.
- ¹⁹ *Ibid.*, p. 61.
- ²⁰ Gas Flaring in Nigeria: A Human Rights, Environmental and Economic Monstrosity (Climate Justice Programme and Environmental Rights Action/Friends of the Earth Nigeria)
- ²¹ Boele, R., Fabig, H., Wheeler, D. (2001). Shell, Nigeria and the Ogoni: A Study in Unsustainable Development: I. The Story of Shell, Nigeria and the Ogoni People-Environment, Economy, Relationships: Conflict and Prospects for Resolution. Sustainable Development, 9, 74–86.
- ²² Books and Writers. (2003). Ken Saro-Wiwa (1941–1945). Retrieved 9 November 2024 from, <http://www.kirjsto.sci.fi/saro.htm>

⁸⁹ CAP A25 LFN, 2004

⁹⁰ First published in 2011 by the United Nations Environment Programme. ISBN: 978-92-807-3130-9;

- ²³ *Ibid*, p. 14.
- ²⁴ Gas Flaring in Nigeria: A Human Rights, Environmental and Economic Monstrosity (Climate Justice Programme and Environmental Rights Action/Friends of the Earth Nigeria)
- ²⁵ *Ibid*, p. 22.
- ²⁶ Suit No. UHC/48/73, Judgment of 25/11/74.
- ²⁷ (1954) 2, QB 182.
- ²⁸ Okorodudu-Fubara, M.T. *ibid*. p. 3.
- ²⁹ See Naval Advancement, integrated Publishing available at <http://www.tpup-products.com/archive/?./subscript> accessed 15-10-2024
- ³⁰ Sees the Report of the Environmental Pollution Research Unit (EPRU) of the Institute of Oceanography, University of Calabar prepared after conducting various tests to assess the water quality of the major tributaries that drain into the Cross River estuary (1989) by F Asuquo, (Ajayi and Osibanjo) 1981, (Adeniyi and Mbagu) 1983,(Imevbore) 1970, (Asuquo) 1989, Environmental Pollution of the Great Kwa River at Calabar, Nigeria: A case study. Journal of Applied Sciences in Environmental Sanitation 6 (3) 287-298.
- ³¹ Naval Advancement op cit.
- ³² The fire at Badagry road terminus of the Lagos ferry service in which a ferry was seriously damaged and the other requiring some weeks of repair work had been traced to spilled oil from bunkering vessels abandoned on the Lagoons
- ³³ (Otherwise known as Funiwa 5)
- ³⁴ Ramani Abah, "Texaco Oil Blowout" – Survey and Report (2000), p. 35.
- ³⁵ *Ibid*, p. 48.
- ³⁶ The environmental objective of Nigeria
- ³⁷ Section 1(3) of The Constitution of the Federal Republic of Nigeria, 1999, as amended.
- ³⁸ Cap P 10 LFN, 2004.
- ³⁹ *ibid*. Section 9 (1) (a) (b) (!!!)
- ⁴⁰ *Ibid*. Section 9.
- ⁴¹ Regulations 25
- ⁴² *Ibid*. Regulations 37.
- ⁴³ *Ibid*. Regulations 40
- ⁴⁴ Regulation 17 (1) (b)
- ⁴⁵ *Ibid*. Regulation 23 and 27
- ⁴⁶ Regulations 43 (3)
- ⁴⁷ Section 45
- ⁴⁸ Now Cap 06 LFN, 2004.
- ⁴⁹ Section 1 (1)
- ⁵⁰ *Ibid*. Section 3 (1).
- ⁵¹ *Ibid*. Section 3 (2)
- ⁵² Section 2 & 3
- ⁵³ *Ibid*. Section 5 (5)
- ⁵⁴ *Ibid*. Section 7 (1)
- ⁵⁵ *Ibid*. Section 7 (5).
- ⁵⁶ *Ibid* Section 7 (b).
- ⁵⁷ *Ibid*. Section 7 (5) (c).
- ⁵⁸ *Ibid*. Section (8) (8).
- ⁵⁹ The Nigerian Port Authority is the agency charged with the administration of the Nigerian sea ports. The Nigerian Port Authority Act, Cap N126 LFN, 2004.
- ⁶⁰ *Ibid*. Section 10
- ⁶¹ *Ibid*. Section 4
- ⁶² *Ibid*. Section 4 (2) (a).
- ⁶³ *Ibid*. Section 12.
- ⁶⁴ Cap 07, LFN 2004.
- ⁶⁵ Section 11 (5)
- ⁶⁶ Section 17(4)
- ⁶⁷ Regulation 4
- ⁶⁸ Regulation 9 (1) (b)
- ⁶⁹ Regulation 26
- ⁷⁰ Cap 20, LFN 2004.
- ⁷¹ Section 3 (1)
- ⁷² Section 4
- ⁷³ Section 5 of the NOSDRA Act; This is subsequently referred to as the Plan; the complete document can be downloaded from the NOSDRA website; http://www.nosdra.org/tech_info.html, retrieved 02/12/24.
- ⁷⁴ Section 1, NOSDRA (Establishment) Act, Cap N157, LFN 2006
- ⁷⁵ Section 18, *ibid*.
- ⁷⁶ Section 2(1) &(2) provides for the establishment the Governing Board and equally lists the composition of the Board
- ⁷⁷ Section 5, *ibid*.
- ⁷⁸ Section 5(a-n), *ibid*.
- ⁷⁹ Section 6(1)(a-e), *ibid*.
- ⁸⁰ Hence, the exclusion of oil and gas sector from the purview of the jurisdiction of National Environmental Standards and Regulations Enforcement Agency (NESREA) by the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, Cap N164 LFN 2007 – save as provided in Section 7(c) thereto, relating to enforcement of compliance with the provisions of international instruments on environmental protection in the sector.
- ⁸¹ Section 7, *ibid*.
- ⁸² Section 18, *ibid*.
- ⁸³ Section 18(1) (a-c), *ibid*.
- ⁸⁴ The Second Schedule laid down the functions or duties of every stakeholder Ministry or Agency (Public or private) that will be co-opted and involved in the event of a major or disastrous oil spill.
- ⁸⁵ Section 19(3), *ibid*.
- ⁸⁶ Second Schedule to the NOSDRA Act.
- ⁸⁷ Aniefiok E. Ite, Usenobong F. Ufot, Margaret U. Ite, Idongesit O. Isaac, Udo J. Ibok. (2006), Petroleum Industry in Nigeria: Environmental Issues, National Environmental Legislation and implementation, An Open Access and Academic Publisher, p. 21-37.
- ⁸⁸ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act Cap N164 LFN, 2007.
- ⁸⁹ CAP A25 LFN, 2004
- ⁹⁰ First published in 2011 by the United Nations Environment Programme. ISBN: 978-92-807-3130-9, Job No.: DEP/1337/GE United Nations Environment Programme.