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BRACING UP INSTITUTIONAL AND LEGAL FRAMEWORKS FOR ENVIRONMENTAL PROTECTION IN NIGERIA TOWARDS SUSTAINABLE DEVELOPMENT

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Environmental degradation poses a significant challenge to sustainable development in Nigeria. Key issues include institutional weakness, an inadequate legal framework, and the judiciary's often unprogressive stance on environmental protection. This paper critically examines judicial attitudes toward pollution control and analyses the constitutional provision on locus standi under the 1999 Constitution (as amended), which impedes public interest environmental litigation. These obstacles hinder sustainable development and negatively affect communities that rely on environmental resources for their livelihoods. The study adopts a doctrinal research approach, relying on statutes, regulations, case law, and scholarly commentary to evaluate Nigeria's environmental legal and institutional framework. It also incorporates a comparative analysis with jurisdictions known for progressive environmental governance. Key concerns include poor coordination among regulatory bodies, weak enforcement, and judicial reluctance to hold polluters accountable—particularly in industrial pollution cases. The paper recommends reforming environmental laws, enhancing institutional capacity, public sensitization, and adopting a liberal interpretation of locus standi. These measures are crucial for advancing environmental justice and sustainability in Nigeria.

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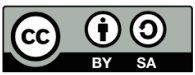

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1. INTRODUCTION

Environmental degradation in Nigeria is not only an ecological problem but also deprives the nation of its ability to develop sustainably. The rate at which the country develops and cities grow, coupled with a thoroughly exploited natural resource base, has ever-worsening pollution, biodiversity destruction and environment deterioration. By directly addressing these environmental difficulties, there is a reclamation of three pillars upon which sustainable development can stand: social welfare, economic success and environmental sustainability.[1]

Environmental degradation in Nigeria brings not only economic costs, but also low-quality life. Dirty air, ill water and hazardous waste in the soil lead to deteriorating health and disease levels, which are now two of the principal causes eroding quality of life for people throughout Nigeria. Three other effects of environmental despoliation are that people's food sources become unreliable, their work opportunities less sustainable, and living standards drop. A deteriorating environment also imposes huge economic costs on Nigeria. Soil degradation, deforestation and water pollution all erode agricultural productivity, endanger food security and add to long-term health care bills arising from pollution-induced chronic disease.[2] Moreover, environmental degradation keeps foreign investment at bay and damages vital industries such as tourism and fishing; it also erodes the long-term prospects for extractive industries. Without good environmental governance, economic growth is often achieved at the cost of natural resources, creating patterns of development that are not sustainable in the long run and thus threaten future prosperity.[3]

The environment serves as a support system for all living organisms, making its preservation essential for sustaining lives.[4] Any harm to the environment inevitably impacts human health, biodiversity, and overall

[1] Inna Čábelková and others, 'Environmental Protection or Economic Growth? The Effects of Preferences for Individual Freedoms' (2023) 11 Frontiers in Environmental Science
[2] ibid
[3] ibid
[4] OO Ikubanni, OD Fajemila, TD Akinkoye, SS Oluwalana, IE Kolawole and EP Yakubu, 'Protecting the One Earth: An Examination of the Legal and Institutional Frameworks on Environmental Protection in Nigeria' (2023) 14(1) NAUJILJ 1

ecological balance. In Nigeria, environmental degradation has become a pressing issue, and this, no doubt, has brought attendant consequences such as food insecurity, loss of source of livelihood and biodiversity, displacement, increased land vulnerability to extreme weather conditions, and poor living standards.[5] Despite the gravity of this crisis, environmental polluters often evade accountability due to weak legislative frameworks, institutional inefficiencies, and judicial reluctance to actively enforce environmental rights and statutory penalties.[6] The establishment of legal and institutional frameworks for environmental protection in Nigeria was largely driven by the Koko waste saga of June I988.[7] In this incident, an Italian company illegally dumped 3,800 tons of hazardous industrial waste in Koko, a town in Delta State, Nigeria, causing serious health risks and displacement of the local population.[8] The environmental disaster prompted the government to recognize the urgent need for environmental protection laws, leading to the creation of the Federal Environmental Protection Agency (FEPA) in 1988 through Decree 58.[9] FEPA was tasked with the administration and enforcement of environmental laws.[10] Additionally, the Harmful Waste (Special Criminal Provisions, etc.) Decree 42 was enacted by the then Military Government to address environmental pollution and hazardous waste management.

Over time, Nigeria has expanded its legal framework by enacting new environmental laws and incorporating pollution control measures into existing legislation. These include the Nigerian Constitution, the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, the Environmental Impact Assessment Act, the Criminal Code, the Administration of Criminal Justice Law (ACJL), and the

[5] Nigeria, *National Policy on the Environment* (Federal Ministry of Environment, 2016) 7 https://faolex.fao.org/docs/pdf/nig176320.pdf accessed 8 February 2025.
[6] A Noah, P Adhikari, B Ogundele and H Yazdifar, 'Corporate Environmental Accountability in Nigeria: An Example of Regulatory Failure and Regulatory Capture' (2021) 11(1) Journal of Accounting in Emerging Economies 70
[7] Olalekan Moyosore Lalude and Ayoyemi Lawal-Arowolo, 'Africa in the Eye of the Storm: Navigating Law and Structural Inequality in Global Environmental Relations' (2022) 8(1) Law & World
[8] Ibid
[9] Ibid
[10] Federal Environmental Protection Agency Act, s 5

National Oil Spill Detection and Response Agency (Establishment) (NOSDRA) Act, among others. Nigeria is also a signatory to key international environmental treaties such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989), the International Convention for the Prevention of Pollution from Ships (MARPOL), the Paris Agreement on Climate Change, and the African Charter on Human and Peoples' Rights.

In addition, institutions such as the Federal Ministry of Environment, National Environmental Standards and Regulations Enforcement Agency, National Oil Spill Detection and Response Agency, Police, and the Court have been created and charged with implementing environmental laws and sustainably managing Nigeria's natural resources. However, the effectiveness of these legal and institutional frameworks is hindered by loopholes, inadequate institutional capacity, judicial reluctance to enforce environmental justice, and weak enforcement mechanisms. A critical examination of these frameworks is essential in understanding their limitation and identifying key areas for reforms. In highlighting the existing research gap, this article calls for comprehensive reforms and robust accountability mechanisms to strengthen environmental protection and promote sustainability. It is divided into six parts: Part One provides an introduction; Part Two presents an overview of extant environmental laws and institutions in Nigeria; Part Three examines legislation on environmental offences and penalties; Part Four explores the functions of regulatory institutions; Part Five identifies regulatory gaps and factors contributing to the inefficiencies of environmental agencies; and Part Six concludes with practical recommendations to address the challenges outlined in part five.

2. CONCEPTUAL CLARIFICATION

Anyogu and Nyekwere[11] critically assesses the legal and institutional framework for sustainable environmental management, focusing on the laws and statutory bodies established to combat environmental

[11] F Anyogu and E Nyekwere. 'Appraisal of the Legal and Institutional Framework for Sustainable Environmental Management in Nigeria' (2020-2021) 16 The Nigerian Juridical Review

degradation, particularly from industrial activities such as oil and gas extraction. While a broad range of legislation and regulatory agencies exist, the paper reveals that the environment continues to deteriorate at an alarming rate. This failure is attributed to weak legal provisions, enforcement deficiencies, institutional overlap, and lack of accountability. The research, using doctrinal methodology, evaluates the effectiveness of environmental statutes and regulatory bodies, ultimately concluding that the existing legal framework is inadequate for ensuring environmental sustainability. However, while the article successfully critiques the weaknesses in environmental governance, it falls short of addressing the specific legal responses required for climate change as a distinct and escalating threat to sustainable development. It does not explore the role of climate-specific legal mechanisms or progressive comparative jurisprudence in bridging the implementation gap. This omission is significant because sustainable development goals cannot be effectively achieved without targeted legal responses to climate-induced risks. The present study addresses this gap by examining the evolving legal treatment of climate change and assessing how more adaptive and climate-specific legal models can advance sustainable development in vulnerable regions.

In a study by Ogunkan[12], although governance is widely acknowledged as central to effective environmental management, sustainable environmental management often remains elusive in practice. Existing literature highlights persistent weaknesses in environmental governance systems, including fragmented institutional arrangements, lack of enforceable policies, limited public participation, and ineffective implementation mechanisms. These structural deficiencies contribute to the failure of environmental governance frameworks to adequately respond to pressing ecological challenges. The reviewed studies emphasize that for sustainable environmental management to be achieved, environmental governance must evolve into a collaborative system where legal, policy, and institutional instruments are both actionable and inclusive of stakeholder interests. However, while these studies emphasize governance failures, they often adopt a descriptive tone and stop short of interrogating how legal frameworks can be restructured to directly engage with climate

[12] DV Ogunkan, 'Achieving Sustainable Environmental Governance in Nigeria: A Review for Policy Consideration' (2022) 2(1) Urban Governance 212

change as a core component of environmental governance. There is limited exploration of how integrated legal reforms—centered on climate justice, participatory governance, and enforceability—can drive sustainable development goals. This gap is particularly critical in contexts where climate vulnerability intersects with institutional fragility. The current study addresses this by critically examining the intersection of environmental governance and climate law, proposing a more cohesive legal approach that aligns environmental regulation with the imperatives of long-term sustainability.

Olujobi and others.[13] investigates the roles of sustainable development and national integration in advancing legal compliance, environmental protection, and long-term sustainability. Their research highlights a persistent gap between sustainability goals and their practical implementation, as many national policies and legal systems reflect the principles of sustainable development but fail to establish enforceable mechanisms that can drive real change. The study finds that while legal systems often espouse sustainability principles, they lack the structural capacity to ensure their realization, particularly in countries with fragmented governance systems. A significant gap in the literature lies in the failure to fully address the legal implications of integrating sustainable development goals (SDGs) into binding legal frameworks. Furthermore, there is limited analysis on how national integration and intersectoral collaboration can bridge the disconnect between policy formulation and effective implementation.

The existing legal and institutional frameworks for environmental protection in Nigeria have been widely criticized for their ineffectiveness. The multiplicity of environmental laws, while extensive, fails to deliver substantive results due to weak enforcement mechanisms and the overall quality of the legal provisions. This gap underscores a critical challenge: despite the presence of numerous laws, the lack of effective implementation and enforcement severely hampers progress toward environmental protection and sustainable development. On the other

[13] Olusola Joshua Olujobi, Oshobugie Suleiman Irumekhai and Adetutu Deborah Aina-Pelemo, 'Sustainable Development and National Integration: A Catalyst for Enhancing Environmental Law Compliance in Nigeria' (2024) 54(1) Environmental Policy and Law

hand, Lalude and others argue that ecocentrism offers some novel insights into sustainability. A guide to such sustainable management practices is to be found in ecocentrism. The resources of the forest have long been used as an invaluable source of traditional medicine in West Africa. This approach lends particular pertinence to current discussions on institutional and legal mechanisms for environmental protection in Nigeria, for the effective management of forest resources is central to integrating traditional medicine into modern health systems. Short case-studies from Nigeria and Ghana are presented in order to put across that ecological acumen brings real benefits-in this case along lines such as conservation and forestation, community health, and sustainable development. Now, by incorporating ecocentrism into environmental policy-making and community initiatives, there is a promising path in environmental protection.[14] Furthermore, Kodiya and others advocates for Integrated Pollution Prevention and Control (IPPC) strategies, combining advanced technologies, stringent regulations, and stakeholder participation to achieve up to 40% pollution reduction within five years.[15] This is in alignment as a sustainable approach to environmental protection.

Several environmental laws in Nigeria criminalize and impose penalties for environmental offences. The NESREA Act is comprehensive in its objectives and in the severity of its penalties. However, enforcement is ineffective: administrative weaknesses, meddling by powerful interests and redundancy all prevent reality from matching its regulations. NESREA does not have oversight of the oil and gas sector, which is one of Nigeria's major sources of pollution, leaving a hole in environmental governance that is vitally important.

The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act was established in 2007 (amended in 2018) with the primary objectives of protecting and developing the environment, biodiversity conservation, and enhancing the sustainable development of

[14] Olalekan Moyosore Lalude, Dayo Akindipe and Ayoyemi Lawal-Arowolo, 'Promoting Traditional Medicine in West Africa within the Framework of Ecocentrism: Nigeria and Ghana as Case Studies' (2025) 16(4) Journal of Sustainable Development Law and Policy

[15] Muhammed Amin Kodiya and others, 'Environmental Pollution in Nigeria: Unlocking Integrated Strategies for Environmental Sustainability' (2025) 18(1) African Journal of Environmental Sciences and Renewable Energy 30

Nigeria's natural resources. It was enacted following the inadequacy of the Federal Environmental Protection Agency (FEPA), which was earlier established, to protect, restore, and preserve the ecosystem of the Federal Republic of Nigeria. The FEPA Act was unable to address all the environmental challenges of the country and thus, brought the need for a more robust legislation. The NESREA Act established the National Environmental Standards and Regulations Enforcement Agency, the primary regulatory body in charge of enforcing environmental standards, regulations, rules, laws, policies, and guidelines.[16] It prohibits the discharge in such harmful quantities of any hazardous substance into the air or upon the land and the waters of Nigeria or at the adjoining shorelines, except the discharge is permitted under the law.[17] Anyone or corporate entity that violates this provision commits an offence and on conviction liable to a fine of not exceeding N1,000,000. An additional fine of N50,000 may be imposed for every day the offence subsists in the case of a company or for an individual, an alternative term of imprisonment not exceeding five years.[18] While the punitive measures are laudable in deterring environmental pollution, the enforcement remains a challenge.

Harmful Waste (Special Criminal Provisions) Act was enacted following the attendant consequences of the toxic wastes dumped at Koko in Delta State (former Bendel state), Nigeria. It is one of the legislations on environmental protection in Nigeria penalizing the illegal disposal of harmful waste. In this context, 'harmful waste' implies any injurious, poisonous, toxic or noxious substance.[19] In particular, it includes nuclear waste emitting any radioactive substance if the waste is in such quantity, whether with any other consignment of the same or of different substance, as to subject any person to the risk of death, fatal injury or incurable Impairment of physical and mental health.[20]

The Harmful Waste Act declares all activities relating to the purchase, sale, importation, transit, transportation, deposit, storage of harmful wastes as

[16]NESREA Act 2007, s 1(2)(a)
[17] Ibid, s 27
[18] Ibid
[19] Harmful Waste (Special Criminal Provisions) Act, s 15
[20] Ibid

prohibited and unlawful.[21] Thus, anyone who carries, transports, imports or causes to be carried, transported, or imported, deposits, sells, or offers for sell, or is in possession of harmful wastes without lawful authority violates the Act and shall be held guilty of a crime under it. A person can be held liable for either committing, assisting, or counselling another person to commit the crime.[22] Where a person is alleged of the offence, there is no defence that the waste was placed in a container to reduce any risk of injury or damage. There is equally no defence of immunity, that is, the privilege exempting persons from prosecution.[23]

The punishment for committing the crime is life imprisonment and forfeiture of the instrument, be it land or carrier, used in perpetrating the offence to the Government.[24] The Minister may seal up the area or site used for the depositing or dumping of the waste if he deems fit and anyone who breaks such seal shall be liable to a fine of not less than N50,000 or to imprisonment for not less than five years.[25] Where it is a corporate body found guilty of the crime and is attributable to or committed with the consent of any of the directors, shareholders, secretary, or any other officer, such individual and body corporate shall be punished accordingly.[26] Additionally, any person found guilty of illegal disposal or dumping of harmful waste will also be liable for any resulting damage, including death, injury, or disease suffered by any person.[27] While the Act is commendable in providing strict penalties for environmental pollution, it lacks specific penalties and the mode of accountability for corporate bodies that violate the Act. This gap can pave the way for disproportionate liability for any environmental damage caused by corporate entities, particularly where the crime cannot be traced to any officer of the company.

Environmental Impact Assessment Act as it is called, is the core legislation that governs environmental impact assessment in respect of proposed

[21] Ibid, s 1
[22] Ibid, s 2
[23] Ibid, s 9
[24] Ibid, s 6
[25] Ibid
[26] Ibid, s 7
[27] Ibid, s 12

projects in Nigeria. It mandates the public and private sectors to assess the potential impacts of their project before such a project is embarked upon.[28] This is to ascertain the positive or negative impact or environmental issues such a project is likely to cause on the Nigerian natural environment as well as its socioeconomic, cultural, and human health impacts, whether adverse or beneficial. By implication, no industrial plan or activity of both the public and private sectors of the economy can be executed except with prior consideration of the environmental consequences of such a proposed action.

An application for the assessment must be made in writing and where such a project is likely to cause significant adverse environmental effects that cannot be mitigated and justified in the circumstances, the Federal Ministry of Environment (FME) may refuse to grant a permit required to embark on the project in whole or in part.[29] It imposes a fine of 100,000 or five years' imprisonment for non-compliance with the Act.[30] This Act is instrumental in protecting and sustainably managing the environment, particularly in regions like Niger Delta where pollution by oil and gas companies is rampant.[31] The Act however lacks effective compliance as Nigeria still faces environmental degradation today, particularly in the Niger Delta Region. Further, its penalty of N100,000 fine is disproportionate to the adverse impact a project can have on the environment and the local population.

National Oil Spill Detection and Response Agency (Establishment) (NOSDRA) Act for oil spill constitutes one of the most concerning environmental challenges in Nigeria, as it has a permanent consequential effect on the source of livelihood of residents of the area affected by the oil spillage.[32] The NOSDRA Act is a specialized and principal legislation

[28] Environmental Impact Assessment Act, s 2(1)
[29] Ibid, s 2(4)
[30] Ibid, s 60
[31] B Ordinioha, and S Brisibe, 'The Human Health Implications of Crude Oil Spills in the Niger Delta, Nigeria: An Interpretation of Published Studies' (2013) 54(1) The Nigerian Medical Journal
[32] S Ekpali, 'Timeline: Half a century of oil spills in Nigeria's Ogoniland' (Al Jazeera, 21 December 2022) https://www.aljazeera.com/features/2022/12/21/timeline-oil-spills-in-nigerias-ogoniland accessed 8 February 2025

on environmental protection in the oil and gas sector in Nigeria enacted to address oil pollution and reduce its adverse impact on the environment. The Act established the National Oil Spill Detection and Response Agency, charged with the responsibility of ensuring safe, timely, effective, and appropriate detection and response to oil spillages in Nigeria.[33] It charges oil spillers with the duty to report an oil spill to the Agency in writing not later than 24 hours after the occurrence of an oil spill.[34] Anyone in default of this provision shall be penalized with a sum of five hundred thousand naira (N500,000) for each day of failure to report the occurrence.[35] In addition, the failure to clean up the impacted site, to all practical extent including remediation, shall attract a further fine of one million naira.[36]

The Criminal Code Act is the principal legislation on criminal matters in Nigeria. By Section 245 of the Act, 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. Also, Section 247 of the Criminal Code Act declares as an offence any act that pollutes the atmosphere in such a way as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood. Like other laws, most of the provisions of the Criminal Code Act lack proper enforcement mechanisms, thus making it ineffective.[37]

The Administration of Criminal Justice Act[38] is a landmark legislation in Nigeria established to reform the criminal justice system and improve the administration of justice in the country. Section 72 of the Act grants discretion to the court to make orders as it deems fit in respect of any report or information that an offence relating to public nuisance has been committed. Public nuisance could mean anything harmful, offensive, or unpleasant to the community. Environmental pollution can be categorized

[33] National Oil Spill Detection and Response Agency (Establishment) (NOSDRA) Act, s 1
[34] Ibid, s 6(2)
[35] Ibid
[36] Ibid, s 6(3)
[37] Adeola Olufunke Kehinde, 'Environmental Problems in Nigeria: Pollution in Focus' (2021) 3(2) Economics & Law 9
[38] Administration of Criminal Justice Act (ACJA), 2015.

under this offence. To prevent undue delay in attaining justice, a major issue facing proceedings in Nigeria, the Act introduces limits to adjournments that can be made in respect of a case by each party. By virtue of section 396(3)-(5), it requires a day-to-day trial from arraignment till the conclusion of the trial and where impracticable, to a total of not more than five adjournments. Costs can be awarded against parties for frivolous adjournments and cases may be struck out in cases of undiligent prosecutions. This is to expedite trials and ensure the quick disposal of criminal cases in the interest and as of right, of a suspect, the defendant, the victim, and the society at large.[39] These provisions do not however totally resolve the issue of delay plaguing the criminal justice system as Nigerian courts are overly burdened with cases including environmental matters.

The Constitution of the Federal Republic of Nigeria[40] which is the *grundnorm* of the country, also recognizes the need to protect the environment against pollution. It provides in Section 20 that 'the state shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria.' By implication, the government is obliged to ensure a safe and improved environment for the citizenry by promoting activities geared towards achieving this objective. Regrettably, this provision and mandate placed on the Nigerian government are unenforceable and non-justiciable by virtue of Section 6(6)(c) of the same constitution. It remains an optional obligation for the government to perform where it deems fit. However, the Constitution makes provision for the domestication of international treaties. Through this, international environmental treaties that criminalizes environmental pollution have been domesticated into Nigeria's legal system. For instance, the International Convention for the Prevention of Pollution from Ships (MARPOL) criminalizes the deliberate discharge of oil, chemicals, sewage, and other harmful substances from ships into the sea, and requires states to prosecute offenders and impose penalties to deter marine pollution. Also, the constitution gives validity to other legislation enacted by the Nigerian legislature to address environmental pollution.

[39] Explanatory Memorandum, ACJA, 2015; *FRN v Lawan* [2018] LPELR-43973 (CA)
[40] The Constitution of the Federal Republic of Nigeria, 1999 (as amended).

Laws alone are insufficient without effective institutions to enforce them. In Nigeria, various agencies and institutions have been established to ensure compliance with environmental laws and hold environmental offenders liable for their actions. However, these bodies have demonstrated inefficiencies over time. To critically assess their shortcomings, it is essential to examine their functions and enforcement mechanisms.

The Federal Ministry of Environment in Nigeria was established at the start of the civilian administration in June 1999 to safeguard the environment and coordinate all environmental affairs effectively.[41] It replaced the Federal Environmental Protection Agency (FEPA) initially established by Decree No. 58 of 1988 as the key authority in charge of all matters about the Nigerian environment, its resources, and administration. FEPA failed in achieving its purpose of creation as it proved inefficient in addressing Nigeria's environmental challenges.[42] The Ministry of Environment is charged with dealing with environmental issues and ensuring that all environmental matters are handled well across Nigeria.[43]

It plays supervisory role and oversees different organizations and research institutes that focus on protecting and maintaining the environment. The Ministry also has the following parastatals through which it fulfils its responsibilities: Environmental Health and Registration Council of Nigeria (EHORECON); Forestry Research Institute of Nigeria (FRIN); National Biosafety Management Agency (NBMA); National Environmental Standards Regulatory and Enforcement Agency (NESREA); National Agency for the Great Green Wall; National Oil Spill Detection and Response Agency (NOSDRA); and National Parks Service

[41] Nigerian Leaders, 'List of All Ministers of Environment in Nigeria (2003–Present)' (Nigerian Leaders, 2024) https://nigerianleaders.com/list-of-all-ministers-of-environment-in-nigeria/ accessed 5 February 2025.
[42] OO Ikubanni, OD Fajemila, TD Akinkoye, SS Oluwalana, IE Kolawole and EP Yakubu, 'Protecting the One Earth: An Examination of the Legal and Institutional Frameworks on Environmental Protection in Nigeria' (2023) 14(1) NAUJILJ 142
[43] Nigerian Leaders, 'List of All Ministers of Environment in Nigeria (2003–Present)' (Nigerian Leaders, 2024) https://nigerianleaders.com/list-of-all-ministers-of-environment-in-nigeria/ accessed 5 February 2025.

(NPS), among others. In addition, the Federal Ministry of Environment has zonal offices in the six geopolitical zones of the country as well as field offices in all the 36 States and the FCT. Since its establishment, the Ministry has introduced initiatives like the Ogoni Cleanup, Clean Energy Initiatives, etc, to combat environmental crises and impact environmental consciousness in the minds of Nigerians.[44]

The National Environmental Standards and Regulations Enforcement Agency (NESREA) is the regulatory institution established by the NESREA Act in 2007 to implement, enforce, and ensure compliance with standards, regulations, rules, laws, policies and guidelines targeted at protecting the environment against pollution. As the lead environmental agency charged with the mandate of protecting the Nigerian environment, it is empowered to make regulations, liaise with relevant stakeholders within and outside Nigeria, and to act for the environmental good of the country by ensuring a sustainable and hazard-free environment for Nigerians. Other major functions of the agency according to the NESREA Act includes to enforce compliance with international instruments, protocols, conventions and treaties on the environment, including climate change, biodiversity, conservation, desertification, forestry and other concerns.

The Agency also has the responsibility of creating public awareness and education on sustainable environmental management and healthy environmental practices. It is charged with the duty of performing any other activities that are necessary or expedient for the performance of its functions. In performing its responsibilities, it has the power to compel and conduct public investigations on pollution and the degradation of natural resources; power to submit for the approval of the Minister, proposals for the evolution and review of existing guidelines, regulations and standards on environment; power to develop environmental monitoring networks, compile and synthesize environmental data; power to promote expansion of environmental research experiments, and coordinate environmental monitoring programs. It is however exempted

[44] Ibid

from performing any activities related to the oil and gas sector even in the face of any pollution.

National Oil Spill Detection and Response Agency (NOSDRA) is established as the lead regulatory institution responsible for preparedness, detection, and response for all matters relating to oil spill management in Nigeria.[45] The Agency's objectives are to coordinate and implement Nigeria's National Oil Spill Contingency Plan by ensuring timely and effective responses to major oil spills, identifying high-risk areas, mobilizing resources, and protecting the environment. It also aims to facilitate cooperation with international and regional bodies, enhance oil spill response capabilities through research and training, ensure adequate funding and equipment, and establish agreements for emergency response and cross-border assistance.[46] As part of its functions, NOSDRA is responsible for surveillance and ensuring compliance with all existing environmental legislation and the detection of oil spills in the petroleum sector. It is to receive reports of oil spillages and coordinate oil spill response activities throughout Nigeria; coordinate the implementation of the Plan for the removal of hazardous substances and others as may be formulated, from time to time, by the Federal Government.[47] It is also empowered to impose sanctions on oil spillers who defaulted in reporting oil spills to the agency within 24 hours for prompt response and action.[48] The Nigerian Police are authorized to oversee, monitor, enforce, and ensure compliance with environmental law particularly under the Harmful Waste (Special Criminal Provisions) Act.[49] They are vested with the power to conduct warrantless searches on any building, land, carrier, aircraft or any other thing whatsoever suspected to be connected to an offence under the Act. In fulfilling its obligations, it has cooperated with environmental agencies like NESREA to support the enforcement of environmental laws.[50] It is generally believed that the court is the last hope

[45] National Oil Spill Detection and Response Agency (NOSDRA) Act, s 1
[46] Ibid, s 5
[47] Ibid, s 6(1)
[48] Ibid, s 6(2)
[49] Harmful Waste (Special Criminal Provisions) Act 1990, s 10
[50] Funmi-Yemi Ale, 'NESREA Partners Police to Prosecute Environmental Crimes in the FCT' Daily Trust (Abuja, 2010) https://dailytrust.com/nesrea-partners-police-to-prosecute-environmental-crimes-in-the-fct/ accessed 8 February 2025.

of the common man, and as such, judges must ensure that justice is properly dispensed at all times. The Nigerian judiciary plays a crucial role in interpreting, applying, and enforcing environmental laws to curb pollution and promote sustainable development. Courts are tasked with ensuring that polluters are held accountable in line with the penalties enunciated in the relevant environmental legislation.[51] They hear environmental-related matters and are to exercise their judicial discretion or powers, where circumstances demand, to promote a sustainable, safe, and healthy environment for the citizenry.

3. GAPS IN EXISTING LAWS/POLICIES WITH RESPECT TO INTEGRATING SUSTAINABILITY

This section thoroughly details the deficiencies in Nigeria's environmental legal and policy frameworks and directly connects these shortcomings to the country's struggle to integrate sustainability into its development agenda. The gaps and shortcomings inherent in Nigeria's environmental legislation have contributed greatly to the ongoing environmental crisis. These weaknesses have equally affected the effectiveness of the regulatory institutions tasked with implementing environmental policies, leading to inefficiencies that ultimately affect their overall functioning, productivity, and ability to fulfil their mandate. Some of these weaknesses include:

3.1 Lack of Robust and Updated Legislation

Some of the environmental legislations put in place are not well-developed, pragmatic, and effective, and as such, require an urgent amendment to enable them to meet their stated objectives and standards. A crucial regulatory gap in the NESREA Act is the limitation placed on NESREA, the lead environmental enforcement agency, over any matters relating to the oil and gas sector.[52] The Agency has no power to enforce laws on matters of pollution, exploration, and exploitation of petroleum and natural gas, and this can hinder sustainability.

[51] See Harmful Waste (Special Criminal Provisions) Act 1990, s 13
[52] See NESREA Act, s 7(g), (h), (j), (k), (l)

Also, the NOSDRA Act lacks a clear definition of an oil spiller, creating ambiguity in liability, particularly when an individual, rather than oil company or tanker owner, causes the spill. Thus, uncertainty as to who would bear responsibility arises where there is a spill by an individual who escapes without making a report within 24 hours. Will the pipeline owner be held responsible for the oil spill considering that he did not cause it or would he be exempted from liability? Moreover, the Act does not explicitly impose fines for oil spills but only penalizes the failure to report within 24 hours and clean-up impacted site.[53] This loophole is concerning as an oil spiller may opt to pay the fine rather than perform their clean-up obligations, thus undermining environmental accountability and deterrence.[54]

Further, the Harmful Waste (Special Criminal Provisions) Act fails to spell out the specific penalties and the mode of accountability for corporate bodies that violate the Act, particularly in situations where the crime is not traceable to any officer of the company.[55] This gap paves the way for disproportionate liability for any environmental damage caused by corporate entities. In addition, it is high time that the exemption of the federal government projects from assessment in emergency periods be scrapped and the EIA Act be updated. The exemption can result in the execution of projects capable of harming the environment and thus, undermining the objective of the Act which is to ensure that projects are safe or healthy for the public. [56]

3.2 Poor Accountability System

The examination of some of the major environmental legal frameworks demonstrates the existence of harsh punitive measures to ensure accountability. However, enforcement of these laws remains a challenge, with the weakness being exploited by environmental offenders to evade

[53] See NESREA Act, s 6(2) and (3)
[54] FA Anyogu and EH Nyekwere, 'Appraisal of the Legal and Institutional Framework for Sustainable Environmental Management in Nigeria' (2020-2021) 16, The Nigerian Juridical Review, 173
[55] Harmful Waste (Special Criminal Provisions) Act, s 7
[56] FA Anyogu and EH Nyekwere, n 49, 174

liability.[57] This is glaring in the Niger-Delta Region which has been exposed to pollution, particularly from oil spillage with most culprits yet to be prosecuted or held liable for their actions.

One of the issues impeding environmental enforcement and accountability are threats from powerful individuals and groups, who own industries, to environmental agencies. An example is the interference of the Federal Government in NESREA's exclusive functions. The Federal Government in May 2012, barred NESREA from sealing telecoms Mast.[58] Since there are laws, they should be followed to the letter and agencies should be allowed to perform their functions without interference.

3.3 Delay in Proceedings

Although the ACJA was introduced to expedite trials and proceedings in court, aiming to ensure that cases are easily disposed off with justice easily and quickly attained, the Nigerian courts are already overburdened with lots of cases that it might take years to be exhausted. Despite this, new cases are also being initiated on a daily basis. It is recorded that litigation in superior court of record typically spans five to six years at first instance and another 3 to 4 years consumed in appellate proceeding, with cases often progressing with no real sense of urgency.[59] This impedes the early determination of environmental matters and delays liability for environmental offences.

3.4 Non-Justiciability of the Constitution and the Attitude of the Judiciary

As examined above, the courts play a pivotal role in enforcing and ensuring compliance with relevant environmental laws and guaranteeing citizens' right to a safe and healthy environment. Judicial decisions have, however, demonstrated the reluctant attitudes of Nigerian courts in

[57] A Noah n 3

[58] Nwachukwu Okechukwu, '(NESREA) and the Challenges of Environmental Regulation in Nigeria' (2024) 4(1) British Journal of Mass Communication and Media Research 1 https://doi.org/10.52589/BJMCMR-FLJQLR8S accessed 14 June 2025.

[59] C J Ubanyionwu, 'Solving the Problem of Delay in Adjudication of Cases in Nigeria through Artificial Intelligence (AI)' (2025) 2(1) Journal of Customary and Religious Law 136

enforcing citizens' environmental rights, particularly when it relates to the provisions of Section 20 of the Nigerian constitution, which have been termed as non-justiciable. The court in *Attorney General of Lagos State v. Attorney General of the Federation and Ors*[60] affirmed the non-justiciable nature of Section 20, stating that section 6(6)(c) of the same constitution is a stumbling block in its enforceability. Although, in *Shell Petroleum Development Company v. Jonah Gbemre*,[61] the judiciary made a ground-breaking judgment, holding that gas flaring violated the fundamental right to life and dignity under the Nigerian Constitution, the enforcement of its orders restraining the respondents from further gas flaring remains weak as gas flaring continued. Moreover, the Judge made no award of damages, costs or compensation whatsoever.

Also, in *Oronto Douglas v. Shell Petroleum Development Company Limited,*[62] the court refused the determination of an environmental matter for lack of locus standi. The plaintiff had no legal standing since he had not suffered a direct injury distinct from the general public. This again reflects the Nigerian judiciary's restrictive stance on environmental litigation and attitude towards environmental justice. Undue adherence to legalism can hinder environmental protection. It can also enhance the apathetical attitudes of most citizens towards the preservation and the protection of the environment.

3.5 Poor Performance of Functions and Supervision of Regulatory Agencies

A major contributing factor to environmental degradation in Nigeria is the poor performance of functions by environmental agencies. These regulatory agencies, by virtue of their establishing Act, have certain functions and responsibilities imposed upon them which they ought to carry out to ensure the preservation of the Nigerian environment and its natural resources. However, the fact that environmental challenges keep

[60] *Attorney General of Lagos State v. Attorney General of the Federation and Ors* [2003] SWLR (PT. 168) 909; *AG, Ondo State v AGF* [2002] 9 NWLR (pt 772)
[61] *Shell Petroleum Development Company v. Jonah Gbemre,* Suit No. FHC/CS/B/153/2005 (Unreported)
[62] *Oronto Douglas v. Shell Petroleum Development Company Limited,* [1999] 2 NWLR (PT 591) 466

increasing at an alarming rate rather being solved indicates that these agencies have failed in their duties. In addition, the increase in environmental pollution despite their establishment proves that these agencies are not properly supervised by the Ministry under which they are created. This lack of supervision encourages lackadaisical attitude of members of these agencies towards their stated responsibilities.

3.6 Lack of Funding and Poor Management of Regulatory Institutions

Nigerian environmental Agencies lacks sufficient funding and the required human and material resources to undertake environmental management. Till date, officers monitoring the environment do not have the effective modern equipment to enhance monitoring of some of the environmental problems.[63] This weakness can hamper their efficiency and ability to quickly identify environmental issues, provide prompt response, and hold responsible individuals accountable.

4. CONCLUSION

Improving Nigeria's institutional and legal frameworks for environmental protection is crucial for achieving sustainable development. While the country has a range of environmental laws and institutions, their effectiveness is often undermined by weak enforcement and inadequate implementation. To overcome these challenges, there is a need for comprehensive legal reforms that focus not only on strengthening the laws themselves but also on enhancing the capacity of enforcement agencies and fostering greater coordination among stakeholders. Nigeria can build a more resilient environmental governance system that effectively protects its natural resources and supports long-term sustainability for future generations.

[63] H Ijaiya, and OT Joseph, 'Rethinking Environmental Law Enforcement in Nigeria' (2014) 5(4) Beijing Law Review

5. LEGAL APPROACHES FOR ADDRESSING THE CHALLENGES: RECOMMENDATIONS

It is trite that when a law is established but not enforced, it is as good as saying that no law exists in that regard.[64] Environmental degradation has remained a persistent issue in Nigeria, posing serious risks to lives, properties, livelihoods, and economic stability, despite the existence of legal and institutional frameworks designed to address it. This crisis stems from weak enforcement, inefficiencies of environmental bodies, and regulatory gaps, which have allowed environmental offenders to evade responsibility. The following recommendations outline key measures necessary to reinforce accountability, enhance environmental justice, and preserve Nigeria's environment.

It is high time Nigeria graduated from the theory to practice wherein our environmental frameworks are put into proper use. Individuals and corporate entities found culpable of environmental crimes should be made to face the full wrath of the law and be responsible for resulting damages. This is in line with the "polluter-pays principle" that mandates that the polluter must pay for their actions.[65] By implication, penalties enunciated in the Statute should be strictly enforced against polluters without exemptions so as to deter others and ensure a working accountability mechanism for environmental pollution.

In other jurisdictions like Kenya and India,[66] special courts and tribunals are created and dedicated to environmental matters. The same system can be replicated in Nigeria since the general courts are currently overburdened by cases relating to other aspects of the law. The special court system can be made to be similar to that of the National Industrial Court. This will ensure a speedy trial, preventing delays in environmental justice and long-term consequential effects on the Nigerian environment.

The legislatures have pivotal roles to play in reforming the legislation on environmental protection to address the existing gaps militating against

[64] Kehinde n 30, 13

[65] Rio Declaration on Environment and Development 1992, Principle 16

[66] The Environment and Land Court (ELC) in Kenya and the National Green Tribunal (NGT) in India.

the effective utilization of these laws. A reform of environmental legislation will also address the challenge of overlapping or conflicting mandates of agencies as well as provide a workable guideline for the proper supervision of these agencies in the performance of their functions. In addition, the legislatures can through reforms ensure that adequate penalties are inserted for relevant offences. That is, penalties should be made proportionate to the damage likely to result from pollution.

The judiciary should avoid undue legalism that may hamper environmental justice and be open to alternative interpretations of statutes to further the objectives it was established to achieve. That is, legal frameworks including the constitution should be creatively constructed in ways that embrace and guarantee citizens' right to a safe and healthy environment. An inkling can be taken from the Indian judiciary which had creatively enforced the right to a healthy environment although it is also limited by Article 37 of its constitution.[67] Aside from this, courts should also enforce compliance with judgments by punishing violators of judicial orders and decisions. This will in turn address the apathetic attitudes of both the government and citizens towards the protection of the environment.

Environmental institutions should be adequately equipped with the necessary instruments, tools, and facilities needed to carry out the functions imposed on them by their establishing statute. Certain duties require modern technology and adequate funding for effective execution. Where such facilities are lacking, the responsibilities become difficult to perform and it dampens the morale of agencies in enforcing the laws and ultimately holding individuals liable for environmental pollution.

[67] SP Sathe, *Judicial Activism in India: Transgressing Boarders and Enforcing Limits* (Oxford University Press 2006)