Global Journal of Politics and Law Research
Vol.12, No.5, pp.52-66, 2024
ISSN: ISSN 2053-6321(Print),
ISSN: ISSN 2053-6593(Online)
Website: https://www.eajournals.org/
Publication of the European Centre for Research Training and Development -UK

The Legal Challenges of Combating Oil Spillage in the Niger Delta Region of Nigeria

Tonghan-Ekpemupolo Elizabeth
Dr. P.I Gasiokwu
annblizz2000@yahoo.com

doi: https://doi.org/10.37745/gjplr.2013/vol12n55266 Published September 08, 2024

Citation: Tonghan-Ekpemupolo E. and Gasiokwu P.I. (2024) The Legal Challenges of Combating Oil Spillage in the Niger Delta Region of Nigeria, *Global Journal of Politics and Law Research*, Vol.12, No.5, pp.52-66

ABSTRACT: *The Niger Delta region of Nigeria grapples with persistent challenges related to oil spillages posing significant environmental, social, and economical risks. Despite numerous efforts to address this issue, various legal hurdles impede the effective combating of oil spills in the region. The problem of this research, therefore, is, why is that oil spillage in the Niger Delta region of Nigeria has continued unabated despite the numerous legal and institutional frameworks put in place for combating oil spillages in the Niger Delta. The aim of this research then is to examine the legal challenges of combating oil spillages in the Niger Delta region of Nigeria. To achieve this, the researcher adopted the doctrinal research method. This method is the use of both primary and secondary resource materials in dealing with the subject matter under investigation. The researcher discovered that corruption and lack of transparency is one of the major reasons why oil spillage in the region continues unabated. It is therefore recommended that anti-corruption measures and enhanced transparency within regulatory agencies by adopting digital tracking systems for monitoring oil spill incidence should be established. This research has contributed to knowledge because it has affirmed that identification of jurisdictional complexities which impede the effectiveness of regulation and enforcement of oil activities in the Niger Delta region is a clog to the legal framework for combating oil spill in the region.*

Keywords: legal challenges, oil spillage, Niger Delta, Nigeria

INTRODUCTION

The Niger Delta region of Nigeria, renowned for its vast oil reserves, has been grappling with the devastating consequences of oil spillage for decades. This environmental crisis has not only wreaked havoc on the region's ecosystem but has also severely impacted the livelihoods and health of local communities[1]. Despite the existence of legal frameworks designed to prevent and address oil spillage, the effectiveness of these measures has been consistently undermined by a complex web of challenges. These legal hurdles have created a seemingly insurmountable obstacle in the pursuit of justice and environmental remediation for the affected populations.

[1] Kadafa, A. A. (2012). "Environmental Impacts of Oil Exploration and Exploitation in the Niger Delta of Nigeria." Global Journal of Science Frontier Research Environment & Earth Sciences, 12(3), 19-28.

The legal challenges in combating oil spillage in the Niger Delta are multifaceted, stemming from a combination of factors including weak enforcement mechanisms, overlapping jurisdictions, and the powerful influence of multinational oil corporations. Nigeria's environmental laws, such as the Oil Pipelines Act of 1956 and the National Oil Spill Detection and Response Agency (NOSDRA) Act of 2006, provide a foundation for addressing oil pollution[2]. However, the implementation and enforcement of these laws have been consistently hampered by institutional weaknesses, corruption, and a lack of political will. This enforcement gap has allowed oil companies to operate with a degree of impunity, often evading responsibility for environmental damages caused by their operations.

Further complicating the legal landscape is the issue of jurisdiction and access to justice. Many affected communities face significant barriers in seeking legal redress, including high costs of litigation, lengthy court processes, and a lack of legal expertise[3]. The Nigerian judicial system, already overburdened and under-resourced, struggles to handle the complex nature of environmental cases related to oil spillage. Moreover, the disparity in resources between local communities and multinational oil corporations creates an uneven playing field in legal proceedings, often resulting in outcomes that favor the latter.

The transnational nature of oil operations in the Niger Delta adds another layer of complexity to the legal challenges. Many of the oil companies operating in the region are multinational corporations, raising questions about the applicability of international law and the jurisdiction of Nigerian courts[4]. Attempts to hold these companies accountable in their home countries have met with mixed results, highlighting the need for stronger international legal mechanisms to address corporate environmental accountability across borders.

Moreover, the ongoing conflict and security issues in the Niger Delta region have further exacerbated the legal challenges of combating oil spillage. The presence of militant groups, sabotage of oil infrastructure, and the overall instability in the region have not only contributed to increased oil spillage but have also hindered efforts to implement and enforce environmental regulations effectively[5]. This volatile situation has created a cycle of environmental degradation and social unrest, making it increasingly difficult to address the root causes of oil spillage through legal means alone. As such, any comprehensive solution to the legal

[2] Ekhator, E. O. (2016). "Public Regulation of the Oil and Gas Industry in Nigeria: An Evaluation." Annual Survey of International & Comparative Law, 21(1), 43-91
[3] Frynas, J. G. (2001). "Problems of Access to Courts in Nigeria: Results of a Survey of Legal Practitioners." Social & Legal Studies, 10(3), 397-419
[4] Ebeku, K. S. A. (2003). "Judicial Attitudes to Redress for Oil-Related Environmental Damage in Nigeria." Review of European Community & International Environmental Law, 12(2), 199-208
[5] Obi, C. I. (2010). "Oil Extraction, Dispossession, Resistance, and Conflict in Nigeria's Oil-Rich Niger Delta." Canadian Journal of Development Studies, 30(1-2), 219-236.

challenges of oil spillage in the Niger Delta must consider not only environmental law but also broader issues of governance, security, and sustainable development.

CONCEPTUAL FRAMEWORK OF LEGAL CHALLENGES OF COMBATING OIL SPILLAGE IN THE NIGER DELTA REGION OF NIGERIA

The history of oil spillage in Nigeria is a complex and multifaceted story, marked by a combination of environmental, social, economic, and political factors. The country's oil industry has been a major source of revenue since the discovery of oil in the Niger Delta region in the late 1950s. However, the rapid expansion of the industry, coupled with poor regulation and oversight, has led to numerous oil spills, which have had devastating impacts on the environment, public health, and local communities.

The first recorded oil spill in Nigeria occurred in 1958, just two years after the country began commercial oil production. Since then, there have been thousands of oil spills, both large and small, across the Niger Delta region, where most of the country's oil production takes place. These spills have been caused by a variety of factors, including equipment failure, pipeline corrosion, operational errors, and sabotage by militants[6].

The Niger Delta is one of the most biodiverse regions in the world, with a rich variety of ecosystems, including mangrove forests, freshwater swamps, and estuaries. These ecosystems are home to a wide range of plant and animal species, many of which are unique to the region. However, the biodiversity of the Niger Delta is under threat from oil pollution, which has had devastating impacts on the region's ecosystems. Oil spills can smother plants and animals, contaminate water sources, and disrupt food chains, leading to declines in populations of fish, birds, and other wildlife[7].

In addition to its environmental impacts, oil spillage in Nigeria has also had serious consequences for public health. The contamination of water sources by oil spills can lead to the ingestion of toxic substances, such as polycyclic aromatic hydrocarbons (PAHs), which have been linked to a range of health problems, including cancer, respiratory illnesses, and reproductive issues. The inhalation of oil fumes can also cause respiratory problems, and exposure to oil-contaminated soil can lead to skin irritation and other health problems[8].

Development of Oil in Nigeria

The development of oil in Nigeria has been a significant factor in the country's economy, politics, and society. The discovery of oil in Nigeria in the 1950s marked the beginning of the modern oil industry in the country and has had a profound impact on its development. The development of oil in Nigeria can be divided into several key phases.

[6] L. Atsegbua. *Oil and Gas Law in Nigeria, Theory and Practice*, 2nd Edition, New Era Publications, Benin (2004) p. 31
[7] OPEC Bulletin, July/August. Access march 19th, 2024.
[8] Oil Statistics and Energy Balance Organisation for Economic Co-operation and Development (OECD)

Phase 1: Early Exploration (1950s-1960s)

The first phase of the development of oil in Nigeria was the early exploration period, which began in the 1950s. The first commercial oil well was drilled in 1956 by Shell-BP Petroleum Development Company of Nigeria Limited (SPDC) at Oloibiri in the Niger Delta region. This discovery marked the beginning of the modern oil industry in Nigeria and led to the construction of pipelines, refineries, and transportation networks to transport oil from the fields to the markets[9].

Phase 2: Rapid Expansion (1970s-1980s)

The second phase of the development of oil in Nigeria was the rapid expansion period, which began in the 1970s. This period saw the discovery of large oil fields in the Middle East, Africa, and Asia, as well as the development of new technologies, such as seismic imaging and drilling techniques, which contributed to the growth of the industry. The demand for oil increased significantly during this period, driven by the growth of the automotive industry and the expansion of industrialization[10].

Phase 3: Political and Economic Challenges (1990s-2000s)

The third phase of the development of oil in Nigeria was marked by political and economic challenges, which began in the 1990s. This period saw the rise of environmental and socio-economic problems associated with the oil industry, including oil spills, pollution, and conflicts over land and resources. The Niger Delta region, where most of Nigeria's oil production takes place, has been particularly affected by these issues, with devastating consequences for the environment, public health, and local communities[11].

Phase 4: Reform and Regulation (2010s-present)

The fourth phase of the development of oil in Nigeria has been marked by reform and regulation, which began in the 2010s. The Nigerian government and oil companies operating in the country have taken steps to address the problems associated with the oil industry, including the establishment of regulatory bodies, such as the National Oil Spill Detection and Response Agency (NOSDRA), and the implementation of environmental management plans. However, these efforts have been hampered by a lack of funding, inadequate enforcement of regulations, and corruption[12].

The development of oil in Nigeria has been a significant factor in the country's economy, politics, and society. The discovery of oil in Nigeria in the 1950s marked the beginning of the modern oil industry in the country and has had a profound impact on its development. The development of oil in Nigeria can be divided into several key phases, including early exploration, rapid expansion, political and economic challenges, and reform and regulation.

[9] L. Atsegbua *et al* "*Environmental Law in Nigeria*: Theory and Practice (2000) p. 18
[10] N.E.S.R.E.A. Act 2007
[11] National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007
[12] Petroleum Act, cap P10 LFN 2004

However, the oil industry in Nigeria has also been associated with numerous environmental and socio-economic problems, including oil spills, pollution, and conflicts over land and resources[13].

REGULATION OF THE ENVIRONMENT

The environment refers to the natural surroundings in which living organisms exist. It encompasses all living and non-living things, including air, water, soil, plants, animals, and humans. The environment provides the resources necessary for life, such as food, water, and shelter, and plays a crucial role in regulating the Earth's climate and supporting biodiversity. The environment is made up of various interconnected ecosystems, each with its own unique set of organisms and environmental conditions. These ecosystems include forests, grasslands, wetlands, oceans, and deserts, among others. Each ecosystem is characterized by its distinct climate, soil type, and biodiversity, and provides specific habitats for different species of plants and animals.

The environment is also influenced by human activities, such as agriculture, industry, and urbanization. These activities can have both positive and negative impacts on the environment. For example, agriculture provides food and other resources, but can also lead to deforestation, soil erosion, and water pollution. Similarly, industrial activities provide goods and services, but can also lead to air and water pollution, habitat destruction, and climate change. Overall, the environment is a complex and dynamic system that supports life on Earth. It is essential for human well-being and the survival of all living organisms, and must be protected and managed sustainably to ensure its continued health and vitality.

What is Pollution?

Pollution refers to the introduction of harmful substances or pollutants into the environment, which can cause adverse effects on living organisms and ecosystems. These pollutants can come from various sources, including human activities, natural processes, and industrial processes. Pollution can take many forms, including air pollution, water pollution, soil pollution, noise pollution, and light pollution.

Section 37 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 defines “pollution” thus: “Pollution means man-made or man aided alteration of chemical, physical or biological quality of the environment beyond acceptable limits and pollutants shall be construed accordingly.”[14]

Air pollution refers to the release of harmful gases, particulate matter, and other pollutants into the atmosphere. Sources of air pollution include vehicle emissions, industrial activities, and the burning of fossil fuels. Air pollution can lead to respiratory diseases, cardiovascular diseases, and other health problems. Air pollution is caused by the emission of a variety of harmful gases

[13] Minerals and Mining Act, cap M 12 LFN 2004
[14] Section 37 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007

into the atmosphere thereby altering its natural state and posing danger to the environment. In the oil industry, the continued flaring of associated gas has contributed immensely to the pollution of our atmosphere. This is as a result of the emission of deadly substances like methane and benezene which pose various health hazards to the host communities. But beyond the oil and gas industry, can be found other sources of air pollution. Increased vehicular activities in our urban dwellings have contributed equally to air pollution through the emission of carbon dioxide and other gases. Indiscriminate burning in our various localities including markets, abattoirs and refuse dump sites have all been identified as sources of air pollution.

Water pollution refers to the contamination of water bodies, such as rivers, lakes, and oceans, with harmful substances. Sources of water pollution include industrial discharges, agricultural runoff, and untreated sewage. Water pollution can harm aquatic ecosystems, affect drinking water quality, and pose health risks to humans and animals. Soil pollution refers to the contamination of soil with harmful substances, such as heavy metals, pesticides, and industrial chemicals. Sources of soil pollution include industrial activities, agricultural practices, and improper waste disposal.

Water, an essential factor in environmental sustenance, can be polluted through various means. Oil operations contribute greatly to the pollution of water resources when produce water and other pollutants are discharged into the ocean, rivers, streams and lakes. When this happens, these waters are severely affected often leading to the death of aquatic life. In other words, fish and other varieties and species of animals found in the marine environment are either killed or chased into deep waters. The major cause of this type of pollution is the toxic substances found in produce water. Water pollution can occur through the deposit or dumping of oil operations waste like mud, sand or silt[15].

In the same vein, oil operations damage resulting in oil spill can cause pollution of the rivers and streams, by rendering them stagnant. Similarly various industrial wastes, both solid and liquid, have been identified as causes of water pollution. Oil pollution of rivers, lakes and streams in the Niger Delta have had damaging effects on fishermen plying their trade; the common complaint now is low catch yield.

Soil pollution can affect soil fertility, crop yields, and human health. Noise pollution refers to excessive or unwanted noise that can disrupt human activities and affect health and well-being. Sources of noise pollution include traffic, industrial activities, and construction. Noise pollution can lead to hearing loss, stress, and sleep disturbances. Light pollution refers to the excessive or misdirected artificial light that can interfere with natural processes and disrupt ecosystems. Sources of light pollution include streetlights, outdoor advertising, and urban development.

[15] See the case of ELF Nigeria LTD V Opere Sillo (infra).

Global Journal of Politics and Law Research
Vol.12, No.5, pp.52-66, 2024
ISSN: ISSN 2053-6321(Print),
ISSN: ISSN 2053-6593(Online)
Website: https://www.eajournals.org/
Publication of the European Centre for Research Training and Development -UK

Noise Pollution

This type of pollution is now a common occurrence in urban regions where commercial and industrial activities are part of everyday life. A major contribution to this type of pollution comes from vehicular activities when horns are blared indiscriminately by impatient drivers[16]. Other causes of noise pollution include:

(i) Excessive music from variety of sources advertising their wares or products, especially cassette and CD traders.
(ii) Excessive noise and sound emanating from a variety of churches and prayer houses in the course of worshipping.
(iii) Excessive domestic noise emanating from social and cultural activities like burials, concerts, bazaars, wedding ceremonies etc.

That the level of noise pollution in our urban cities has increased alarmingly is now recognised by Section 22 of N.E.S.R.E.A. Act 2007. This Section empowers the agency to make regulations on noise emission, control and abatement in order to preserve and maintain public health. There is no doubt that the effect of noise pollution on human health could be damaging. Excessive noise makes life utterly uncomfortable. It can also impair hearing capacity and at the same time lead to disturbance of sleep and emotional distress.

Pollution is a significant environmental issue that can have far-reaching impacts on human health, ecosystems, and the planet as a whole. Addressing pollution requires a comprehensive and coordinated effort from governments, industries, communities, and individuals to reduce pollution levels and protect the environment for future generations.

Environmental Pollution

Environmental pollution in Nigeria is a multifaceted issue that stems from various sources, including industrial activities, urbanization, agricultural practices, and deforestation. These factors have led to the release of pollutants into the air, water, and soil, resulting in significant environmental degradation and health hazards for the population.

Nigeria's rapid industrialization has led to the expansion of industries such as oil and gas, manufacturing, and mining. These industries release pollutants such as sulfur dioxide, nitrogen oxides, and particulate matter into the air, contributing to air pollution. Additionally, the discharge of untreated industrial wastewater into water bodies has led to water pollution, affecting aquatic ecosystems and human health. Rapid urbanization in Nigeria has resulted in increased waste generation and inadequate waste management practices. Many urban regions lack proper waste disposal facilities, leading to the dumping of waste in open spaces, rivers, and drainage systems. This has resulted in the contamination of water sources and the spread of diseases such as cholera and typhoid[17].

[16] Section 22 of N.E.S.R.E.A. Act 2007
[17] Hydrocarbon Oils Refineries Act Cap H5 LFN 2004

Agricultural activities in Nigeria, including the use of pesticides, fertilizers, and other chemicals, have led to soil and water pollution. The indiscriminate use of agrochemicals has contaminated soil and water sources, affecting agricultural productivity and posing health risks to farmers and consumers.

Deforestation in Nigeria, driven by agricultural expansion, logging, and urban development, has led to soil erosion, loss of biodiversity, and climate change. Deforestation reduces the capacity of forests to absorb carbon dioxide, contributing to greenhouse gas emissions and climate change. Additionally, the loss of forest cover has led to soil erosion, affecting soil fertility and agricultural productivity. The effects of environmental pollution in Nigeria are wide-ranging and have significant implications for human health, ecosystems, and the economy. Air pollution, for example, contributes to respiratory diseases such as asthma and chronic obstructive pulmonary disease (COPD), leading to increased healthcare costs and reduced productivity. Water pollution affects aquatic ecosystems, leading to the decline of fish populations and the loss of biodiversity. Soil pollution affects agricultural productivity, leading to reduced crop yields and food insecurity[18].

Addressing environmental pollution in Nigeria requires a comprehensive and coordinated approach. This includes strengthening environmental regulations and enforcement, investing in pollution control technologies and infrastructure, promoting sustainable agricultural practices, and raising public awareness about the importance of environmental conservation. By taking these measures, Nigeria can mitigate the impacts of pollution and protect its environment for future generations.

Effect of Pollution on the Environment especially Ogoni Land

The Ogoni Land, located in the Niger Delta region of Nigeria, has been severely affected by environmental pollution, particularly due to oil exploration and production activities. The pollution in Ogoni Land has had far-reaching effects on the environment, ecosystems, and the health and well-being of the local population. Some of the key effects of pollution in Ogoni Land include: Oil spills and leaks from pipelines and facilities have contaminated the soil in Ogoni Land, leading to reduced soil fertility and agricultural productivity. The pollution has also affected the growth of vegetation, including crops and trees, which have further contributed to soil erosion and land degradation[19].

The contamination of water bodies, such as rivers, streams, and groundwater, with oil and other pollutants has had a significant impact on aquatic ecosystems and water quality. The pollution has led to the decline of fish populations, loss of biodiversity, and reduced availability of clean drinking water for the local population. The release of gases, particulate matter, and other pollutants into the air from oil exploration and production activities has led to air pollution in

[18] M. Gidado. "*Petroleum Development Contracts with Multinational oil firms.* Ed Linform Services (1999) p. 12
[19] OPEC Bulletin – 2009

Ogoni Land. The pollution has contributed to respiratory diseases, cardiovascular diseases, and other health problems among the local population[20].

The pollution in Ogoni Land has had severe health impacts on the local population, including increased rates of cancer, birth defects, and other health problems. The contamination of water sources with oil and other pollutants has also led to the spread of waterborne diseases, such as cholera and typhoid. The pollution in Ogoni Land has had significant economic costs, including loss of livelihoods, reduced agricultural productivity, and increased healthcare expenses. The pollution has also affected tourism and other economic activities in the region[21].

The pollution in Ogoni Land has had devastating effects on the environment, ecosystems, and the health and well-being of the local population. Addressing the pollution in Ogoni Land requires a comprehensive and coordinated effort from governments, industries, communities, and individuals to clean up the environment, restore ecosystems, and protect the health and well-being of the local population.

LEGAL CHALLENGES OF COMBATING OIL SPILLAGE

The Niger Delta region of Nigeria is a major oil-producing region, home to numerous oil and gas facilities operated by multinational corporations. While oil production has brought significant revenue to the Nigerian government and oil companies, it has also led to numerous environmental and social problems for the communities living in the Niger Delta. One of the key issues facing these communities is the problem of compensation for the adverse impacts of oil production. This thesis will explore the problems of compensation affecting oil-producing communities in the Niger Delta, focusing on the challenges, consequences, and potential solutions. Oil-producing communities in the Niger Delta often receive inadequate compensation for the adverse impacts of oil production. Compensation payments are often determined by the government and oil companies without meaningful consultation with affected communities, leading to disputes and grievances.

Compensation payments are often delayed, leaving affected communities without the resources needed to address the immediate impacts of oil production, such as pollution, loss of livelihoods, and health problems. The process of determining compensation payments is often opaque, with little information provided to affected communities about how compensation amounts are calculated. There is often insufficient monitoring of the impacts of oil production

[20] Human Rights Watch, *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities* (New York, February 1999), for a discussion of the costs of oil production for the communities of the delta

[21] For details of the Ogoni crisis and trial of Ken Saro-Wiwa, see Human Rights Watch/Africa, "*The Ogoni Crisis: A Case Study of Military Repression in South East Nigeria*," *A Human Rights Watch Short Report*, July 1995; Human Rights Watch/Africa, "Permanent Transition: Current Violations of Human Rights in Nigeria," *A Human Rights Watch Short Report*, September 1996

on affected communities, making it difficult to assess the full extent of the damage and determine appropriate compensation amounts.

Assessment of Damages

Before compensation is paid, the damage is evaluated. By virtue of cap E13, laws of the federation of Nigeria (2004) Estate Surveyors and Valuers (Registration, etc.) Act, the Estate Surveyors and the valuers (Appraisers) are the sole professionals statutorily recognized in Nigeria to provide advice on the value of pecuniary interests in land or landed property for various purposes including compensation arising from oil spillage. The Estate surveyor and valuer; prepares the valuation upon which the claimant/defendant seek redress and/or prepares his defense, as the case may be. This Evaluation is most times, Scientific and also a matter of Evidence. The Estate Surveyor and valuer also prepares the brief or proof of evidence for the claimant or the defendant solicitor and may also appear as expert witness before a regular court or tribunal and any other jury. His role is to help the court arrive at a just and fair judgment on the quantum of compensation that is reasonable and adequate in the circumstance.

The need for expert witnesses in environment cases has been mentioned in the case of Seismograph Services v. Ogbeni.[22] The case was dismissed because there was no expert to prove damage. For example, if the spill occurs offshore, a marine surveyor is employed to give an estimate of the damage done. The amount of damage done may be proportional to the amount of oil lost during the oil spill but this is not conclusive as a lot of factors can affect the extent of damage. The value of the product on the farm is multiplied by the number of years that the farm will be unproductive, for instance, if the value of the product is N50,000 and the soil will be unproductive for the next five years, the victim will be paid N50,000 × 5 = N250,000.[23] In addition to this, the victim is paid some amount for loss of farming rights. The rates used by the oil company are usually approved by the state government. These rates are only used as a guide and in many cases, not strictly use.[24] The oil companies can decide not to use the government rates and pay higher to the victims so as to promote good relationship. But if the oil companies are paying higher rates to the victims, does it mean that the government rates are low? Most often they are! What should be given to the claimant is the amount he would have obtained from the crops if it had matured and not been damaged by the oil spill.

In Ejamah-Ebube Community v. Royal Dutch/Shell, the learned judge ruled inter alia.

> "I agree entirely with the expert finding of the valuer. The evidence of this expert valuer was subjected to rigorous cross-examination and I find this valuer's evidence credible. Accordingly, I hereby

[22] Seismograph Services v Ogbeni, Supreme Court Of Nigeria, Sowemimo, J.S.C. Idigbe, J.S.C. Obaseki, J.S.C. 5th March, 1976 Suit No. Sc 39/1974. [1976] Nscc 130.
[23] Supra note 10 p33
[24] *ibid*

> award in respect of continuing damage to plaintiff's land and vegetation a sum of N540, 000.00 damage".[25]

Most of the time, multinational oil companies have complained that compensation claims by oil spill victims are outrageously high and in realistic. Could this be the reason for oil companies to lack interest in compensation claims at first? The victims to be compensated on the other hand have argued that their claims are high due to social, cultural, economic and political reasons. Due to lack of financial capacity on the part of individual victims, the host community encourages the few victims of polluted farmland to have a class-based litigation and then, the community finances the litigation fee. With these, claims are escalated and even when an individual is laying claims, he already knows that his community takes a portion of his compensation fund. Furthermore, the victims feel a sense of loss as the revenue derived from oil which is taken from their undeveloped region is used to develop other regions**.**

If the victims secure compensation through a class-litigation or through village chiefs all the money paid may not get to the individually in the long-run. Bearing all of these in mind, victims request exorbitant compensation from oil companies whenever there is the tiniest drop of oil spill. Therefore, Estate Surveyors and valuers play a pivotal role in adjudication involving compensation for oil spillage which claim often runs into Billions of Naira.[26] To perform this role creditably, the valuation process and ultimate valuation must be seen by all parties and particularly the court, to be credible, logical and strongly persuasive such that it leaves room for minimum or no contention.

LEGAL FRAMEWORK ON COMPENSATION

Although Nigeria has a number of Statutes that provide for compensation in matters relating to land or landed property acquisition, only the Oil Pipelines Act Cap145, LFN, 1990[27] contains provisions that are directly related to compensation arising from oil spillage. Other statutes such as the Land Use Act (1978), Minerals Act Cap 121 of 1946, and Petroleum Act Cap 350 LFN 1990, Mining Act No 24 of 1990, Oil in Navigational Water Act, Cap 337 LFN 1990 (all consolidated in the latest Laws of the Federation of Nigeria (LFN, 2010),[28] make only tangential reference to compensation for oil spillage as they deal primarily with acquisition rather than injurious affection.

Section 11(5) of the Oil Pipeline Act provides that the holder of a 1icence shall pay compensation to any person whose land or interest in land is injuriously affected by the exercise of the right conferred by the license, for any such injurious affection not otherwise made good: AND any person suffering damage as a consequence of any breakage of or leakage from the

[25] *Ejamah-Ebube Community v. Royal Dutch/Shell* (2001) N.W.L.R
[26] Supra note 10 p34.
[27] Oil Pipelines Act Cap145, LFN, 1990
[28] *Ibid*.

pipeline or an ancillary installation, for such damage not otherwise made good. Damages arising from sabotage and malicious acts of third parties are exempted.

Section 11 of the Act further provides that where the amount of such compensation cannot be agreed between any such person and the licensee, it shall be fixed by a court in accordance with the relevant section of the Act. According to Section 20 of the Act, the court may award such compensation as it considers just, having regards to:

a. Any damage done to any buildings, crops, or profitable trees by the holder of the license;
b. Any disturbance caused by the holder the exercise of such right;
c. Any damage suffered by any person as a consequence of any breakage of or leakage from the pipeline or an ancillary installation and
d. Loss (if any) in value of the land or interests in land by reason of the exercise as aforesaid.

Jurisdictional issues in Oil Spill Litigation in Nigeria

Oil litigation can take many forms, including civil actions based on tort, contract or property law, criminal prosecutions, public interest litigation, or enforcement of fundamental human rights. Particularly complex issues may arise when cases involve Trans-boundary environmental harms.[29] At common law, an action in an environmental litigation may be based on either negligence, nuisance or under the rule laid down by Rylands v. Fletcher[30]. Each of these common law actions, have some essential requirements which, the plaintiff has the onus of proving.[31]

These torts can be used to apprehend environmental pollution and ensure some degree of environmental conservation. Apart from the problems that an award of damages is dependent on somewhat technicalities and may even be insufficient to redress harm, the major problem with case law is that it depends on a willing plaintiff. Where the transaction costs are too high or because of litigation apathy, or lack of means these torts are me re decorations. More telling is the fact that they cannot be used on an efficient basis for public regulation of the environment. This explains why much of environmental law is statute based.[32] One of the essential considerations of interest had to do with the liability regime. Whereas, most of the torts mentioned earlier are fault based some environment legislations impose strict liability or and provide for compensation rather than damages.[33] For example, section 21 of the Federal

[29] N. Tobi. "*Judicial Enforcement Of Environmental Laws In Nigeria*", Human Rights and the Administration of Justice in Nigeria (2001) A.B.U. Press, Zaria, Nigeria, at p.262.
[30] Supra.
[31] M.T. Ladan, "*Law, Cases and Policies on Energy, Mineral Resources, Environment"* etc. in Nigeria (2010) ABU Press, Zaria, Nigeria; see also Materials and Cases on Environmental Law and Policy, ECONET Publishing Co. Ltd, P.M.B. 1163, Zaria, Kaduna State, Nigeria. (2004) p. 28
[32] A.. Adewale. "Environmental Law and Sustainable Development in Nigeria". Nigerian Institute of Advanced Legal Studies, Lagos, (1994) pp. 11-66.
[33] Petroleum Act Chapter 10 and Oil Pipe Lines Act 1956 Chapter 07 L.F.N 2004

Environmental Protection Agency (FEPA) Act provides that wherever hazardous substances are discharged in contravention of section 20 of the Act, an owner or operator of the facility in question shall also be liable for the cost of their removal, cost of restoration, or replacement of damaged natural resources and reparations, restoration, restitution or compensation as may be determined by the Agency from time to time" except where the discharge is proved to have been caused by a natural disaster, act of war or sabotage. Thus, not only is liability strict (although not absolute) there is also provision for compensation, albeit to be administratively determined by FEPA. The same rules of strict liability and compensation are to be found in the Oil Pipelines Act[34] and the Petroleum Act.[35] Indeed in the former, if the amount of compensation is not agreed between the parties, it shall be fixed by the Court.[36]

CONCLUSION

The Niger Delta Region of Nigeria faces profound challenges related to oil spillage, which has caused extensive environmental degradation and socio-economic disruptions. The legal framework governing oil spillage is plagued by significant weaknesses, resulting in insufficient protection for both the environment and the communities residing in the region. A major legal challenge is the inadequacy of the existing regulatory framework, which lacks the rigor and enforcement necessary to prevent and mitigate oil spills effectively. This regulatory insufficiency is compounded by the complex interplay between various laws and agencies, often leading to jurisdictional ambiguities and enforcement gaps.

Community participation in decision-making processes regarding oil spillage is markedly limited. The affected communities are frequently sidelined, despite being the primary victims of environmental pollution. This exclusion exacerbates the sense of injustice and undermines the legitimacy of environmental governance. To address this, there needs to be a systemic inclusion of community voices in the environmental management processes, ensuring that those who bear the brunt of oil spills have a say in the remediation and policy formulation efforts.

Compensation mechanisms for affected individuals and communities are another critical issue. The current compensation processes are often mired in delays, bureaucratic inefficiencies, and inadequate financial reparations. Victims of oil spills find themselves struggling to obtain fair compensation for the damage inflicted on their lands, water sources, and health. Reforming these mechanisms to ensure timely, transparent, and adequate compensation is essential for restoring justice and rebuilding trust between the oil companies, the government, and the local communities.

[34] Section 11(5) (c).
[35] Paragraph 36 of schedule 1 to the Petroleum Act, Cap. 350 LFN 1990.
[36] Section 11(5).

Legal proceedings related to oil spillage cases are often hindered by jurisdictional and procedural complexities. The convoluted legal landscape makes it challenging to hold responsible parties accountable swiftly and effectively. Establishing specialized environmental courts or tribunals could streamline the judicial process, providing a more focused and expert-driven approach to handling environmental litigation. Such courts would facilitate quicker resolutions and stronger enforcement of environmental laws.

Technical capacity within regulatory bodies is another region of concern. The agencies responsible for monitoring and responding to oil spills often lack the necessary resources, training, and technology to perform their duties effectively. Enhancing the technical capabilities of these agencies through investments in modern equipment, training programs, and international collaborations would significantly improve their ability to manage and mitigate oil spills.

Corporate negligence remains a persistent problem, with oil companies frequently failing to adhere to environmental standards. The lack of stringent accountability measures allows such negligence to continue with minimal repercussions. Introducing robust corporate accountability frameworks that include mandatory environmental audits and severe penalties for non-compliance is crucial. These measures should be designed to ensure that oil companies prioritize environmental protection and are held accountable for any lapses.

Corruption within regulatory bodies further undermines efforts to combat oil spillage. Corruption not only erodes public trust but also compromises the effectiveness of regulatory oversight. Implementing anti-corruption strategies, such as digital monitoring systems and independent audits, can enhance transparency and accountability, ensuring that environmental protection funds are used appropriately and effectively.

Access to legal recourse for affected individuals and communities is often obstructed by various barriers, including legal complexity, lack of representation, and financial constraints. Providing legal aid and simplifying the claims process can empower these communities to seek justice and hold polluters accountable. Establishing community legal clinics and support services can also play a vital role in facilitating access to legal recourse.

The environmental degradation caused by oil spillage has far-reaching impacts on the health and livelihoods of local populations. Contaminated water sources, soil degradation, and air pollution contribute to a range of health issues, including respiratory problems and waterborne diseases. Comprehensive environmental and public health programs are needed to address these issues. Such programs should include environmental restoration efforts and health assessments to provide necessary medical support to affected communities.

Addressing the legal challenges of combating oil spillage in the Niger Delta requires a multifaceted approach that involves strengthening regulatory frameworks, enhancing

community participation, reforming compensation mechanisms, simplifying legal processes, and building technical capacity within regulatory agencies. Corporate accountability must be enforced rigorously, and anti-corruption measures must be implemented to ensure transparency and effectiveness. Additionally, providing legal aid and support services, along with comprehensive environmental and public health programs, will be crucial in mitigating the adverse impacts of oil spillage and fostering a sustainable and just environmental governance system in the Niger Delta.