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THE SUSTAINED STRUGGLE FOR ENVIRONMENTAL JUSTICE AND THE RIGHTS OF HOST COMMUNITIES IN THE NIGER DELTA

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Abstract

The article critically examined the sustained struggle of the Niger Delta communities for environmental justice in the region. The issue of environmental justice has been the greatest challenge facing the victims of oil pollution in the region for a long time. Sometimes, the victims are discouraged from instituting actions in the courts due to unnecessary delays and the consequent overstay of their cases in the courts. It is not uncommon to see unnecessarily pending cases in the courts for decades. A practical example is the case of *Agbara & ors v Shell* which originated from a devastating 1969/1970 oil spillage and concluded with a final judgment in 2021 after over 40 years of litigation. Throughout this period, the land remained unproductive and uninhabitable. Notwithstanding, the prolonged legal battle, Shell still sought the Supreme Court to review its judgment. Against the background, the authors adopted a doctrinal approach by collecting data from both primary and secondary sources of law especially the 1999 Constitution which guaranteed every Nigerian the right to acquire immovable properties in Nigeria and the rights to damages for unjustifiable interference with that right. The paper therefore recommended expeditious actions when suits involving oil spillage claims are concerned, thereby enhancing the confidence of the victims and the communities in the courts.

Key words: Niger Delta, oil pollution, litigation, environment, spillage, justice

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1. Introduction

It is a complete irony of life that the Niger Delta region of Nigeria blessed with oil and gas resource is among the worst places to inhabit on earth due to severe environmental degradation, hunger, extreme poverty, underdevelopment, sufferings, strange ailments, destruction of traditional livelihoods, and environmental injustice.¹ In other words, the abundant oil wealth in the region does not reflect in the lives of the people, but a source of sustained suffering and struggle for environmental justice. Host communities in many oil producing countries of the world directly benefit from the oil activities through corporate social responsibility, host community development trust funds, infrastructural facilities, scholarships, employment opportunities, adequate compensations and other welfare package systems.² In Ghana, for instance, both the government and the multinational oil companies not only provide local investments in the areas but the companies also provide 90% jobs for the people, including clean-up of the affected areas as part of license terms.³ It is the same with other oil producing countries of the world such as Kuwait, United Arab Emirates, Canada (Alberta), Russia and Venezuela.⁴ The money from the oil and gas resources reflects in the lives and conditions of the host communities in these countries.

The reverse is the case in the Niger Delta region of Nigeria where the host communities are abandoned to their fate. Environmental remediation is a mere lip service. Even the Host Community Development Trusts (HCDTs) meant for the provision of the infrastructural facilities in the region are ‘sometimes hijacked, politicized, or controlled by local elites, leaving residents without direct benefits’.⁵ Worse still, the impact of the legal frameworks put in place is hardly felt due to inadequate or complete lack of enforcements. Consequently, the region continues to struggle with extreme poverty,

¹ Idongesit Eshiet & Grace Udoen, ‘Oil of Poverty, Environmental Degradation and Crisis in the Niger Delta, Nigeria’ (2024)11 *The Nigerian Journal of Business and Social Sciences* 51.

² Koko C. Josiah, ‘Host Communities’ Rights to Participation and Consultation in the Petroleum Industry in Nigeria: An Appraisal’ (2023)8 *African Journal*129.

³ Ibid.

⁴ Christopher A. Ekpo & Emmanuel P. Udofia, ‘An Assessment of the Broad Expectations of Oil Communities in Relations to Oil Resource Exploration in Some Oil Producing Communities of Akwa Ibom State, Nigeria’ (2023)15 (1) *International Journal of Social Sciences* 138-154.

⁵ Ignatius Chukwu, ‘Niger Delta Stakeholders Demand Audit of Host Community Funds under PIA’ (2025) *Business Day*, 13 June 2025, 32.

pollution-related ailments and infrastructural decay. According to Andersen Global, the oil and gas sector from the Niger Delta region generates almost 80% of the federal government's revenue, yet the people languish in poverty.⁶ It further stated that;

These oil producing communities have suffered historical neglect in terms of the provision of socio-economic infrastructures for the enhancement of the living conditions of inhabitants of such communities.⁷

The plight of the host communities is further compounded by the fact that when they approach the courts within the country to ventilate their grievances, it becomes a heinous task. Many of them who have genuine cases have been frustrated by procedural and technical challenges of litigations thereby making the region a safe haven for the operations of the companies with impunity. Some of the oil litigations were frustrated by want of *locus standi*,⁸ jurisdictional impediments,⁹ poverty¹⁰ and problems of proof.¹¹ Sometimes, when the judgment is not favourable to the multinational companies, the enforcement becomes a herculean task as seen in the case of *Jonah Gbemre v. Shell*.¹² It is consequent upon the frustrations at the domestic courts that many victims of pollution in Nigeria devised the means of taking the oil companies to courts in Europe. Majority of the suits in the home countries of the companies were successful as the plaintiff victims of pollution claimed adequate compensations. An instance is the case of *Akpan v. Shell*¹³ where the victims of pollution in the Niger Delta region successfully claimed €15 million compensation against the Royal Dutch Shell in the Dutch Court, Netherlands. The case of *Agbara & ors v. Shell*¹⁴ is one of the prominent cases involving oil pollution in the Niger Delta where justice was glaringly elusive due to undue delay stretching over 3 decades, including other bottlenecks as substantiated in this paper.

⁶ Andersen Global, *Can Host Community Development Trusts Resolve the Social License Issues in the Oil Producing Communities?* 30 August 2022 <<https://ng.andersen.com/can-host-community-development-trusts>> accessed 18 June 2026.

⁷ Ibid.

⁸ *Oronto Douglas v. Shell* (1999) 11 NWLR Pt. 628, 359

⁹ *Abel Isaiah v. Shell* (2002) FWLR Pt. 97, 823

¹⁰ *Seismograph Services (Nig) Ltd v Ogbeni* (1976) 4 SC 85

¹¹ *Tiebo VII v. Shell* (2005) 4 FWLR (pt. 283) 674

¹² Suit No. FHC/B/CS/53/05 or (2005) AHRLR 151

¹³ Case No. C/09/337050/HA ZA 09-1580

¹⁴ (2008) 2 NWLR Pt. 1071, 285

2. Nature and scope of Oil Pollution Crisis in the Niger Delta Region of Nigeria

Oil pollution is one of the greatest challenges facing the Niger Delta region of Nigeria as a result of oil exploration and exploitation activities. The major cause of the pollution in the region is oil spillage due to rupture, mechanical failure, bunkering, illegal refining or oil tanker accidents during transportation which most often results in fire outbreak and loss of lives and properties.¹⁵ Oil pipeline corrosion is also responsible for a significant percentage of the spillage as many of the pipelines have been laid for over 50 or 60 years without regular inspection and maintenance as done in other regions of the world.¹⁶ Again, the pipelines that operate beyond their span are not replaced with new ones resulting in corrosion, leakage and fire outbreak. An instance was the Jesse pipeline explosion in 1998 which resulted in fire outbreak and the death of over 1,000 people.¹⁷ None of the victims received compensation or any other aid from the government or the multinational company.¹⁸ In September 2004, another oil-induced fire outbreak occurred in Okrika, Rivers State, which lasted for 3 days and destroyed a lot of lives and properties.¹⁹ The land remained unproductive for many years and many people in the area were impoverished.

Gas flaring also takes a monstrous posture in the region due to burning of associated gas during oil extraction. The gas flaring in the region not only escalates the greenhouse gas emissions that cause climate change but also endangers the health conditions of the inhabitants especially those close to gas flaring facilities.²⁰ Acid rain destroys not only leaves and vegetables but also the corrugated roof sheets thereby causing untold hardship to the occupants of the buildings. Sometimes, people stay indoors while in others cases,

¹⁵ Nwachukwu Martin Chijioke, *et al*, 'Causes and Effects of Environmental Degradation in the Niger Delta and the Mitigation Measures that can be Implemented' (2025)10 (2) *Saudi Journal of Humanities and Social Sciences* 45

¹⁶ Odoh A Eje, 'Reducing Incidents of Oil Spills and Leaks by Monitoring Conditions of Oil Pipeline in Nigeria' (2024)3 (2) *Journal of African Resilience and Advancement Research* 192.

¹⁷ PB Eregha & I R Irughe, 'Oil Induced Environmental Degradation in the Nigeria's Niger- Delta: The Multiplier Effects' (2009)11 (4) *Journal of Sustainable Development in Africa* 164.

¹⁸ Oteh C Okpo & RC Eze, 'Vandalization of Oil Pipelines in the Niger Delta Region of Nigeria and Poverty: An Overview' (2012)3 (2) *Studies in Sociology of Science* 14.

¹⁹ Ibid.

²⁰ T Stauffer, "Natural gas and Gulf oil: boon or bane?" in G Nurakhmet, *Gas Flaring and Venting: What can Kazakhstan Learn from the Norwegian Experience?* (Dundee: University of Dundee Website 2010) <http://www.dundee.ac.uk/cepmlp/car/html/CAR10_ARTICLE14.PDF> accessed 30 July 2011

doors and windows are often closed due to black soot from the sky that stains clothes, cars, roofs, leaves, properties and contaminates water sources. Many residents wear face masks to avoid cancer risks, asthma, bronchitis and other severe lung infections associated with deteriorating air pollution.²¹ Zheng added that the massive environmental degradation in the region has pushed about 30 million inhabitants of the region into abject poverty, strange ailments, crime, infant mortality and internal population displacement.²² Agbe, *et al*, stated that;

Over the past fifty years, gas flaring and venting associated with petroleum exploration and production in the region have continued to generate complex consequences in terms of energy, human health, natural environment, socio-economic environment and sustainable development. Indeed, widespread gas flaring has inflicted untold hardship and damage to human, plant and animal lives.²³

The exploration and exploitation activities also lead to deforestation, loss of biodiversity, soil erosion, reduced farm productivity and displacement of wildlife and the inhabitants of the region.²⁴ The oil spillage has severely contaminated water bodies in the region such as creeks, rivers, streams and ponds resulting in water-borne diseases, respiratory ailments and reproductive complications.²⁵ The water pollution depletes fish stocks and decimates fishing activities thereby pushing the fishermen in the region to extreme poverty as fishing is the major occupation of the indigenes of the region. Many complained that they have rashes and scratches all over their bodies when they bathe in the waters.²⁶

What compounds the plight of the Niger Delta is the government's indifference to the devastating environmental pollution and impoverishment of the people. Nothing is allowed to obstruct the major source of revenue to the government even when people as

²¹ Elizabeth Zheng, 'Bathing Our Bodies in Soot: The Crippling Health of the Niger Delta' (2022) *Harvard International Review* <<https://hir.harvard.edu/bathing-our-bodies>> accessed 18 June 2026.

²² Ibid. See also MAO Aluko, 'Sustainable Development, Environmental Degradation and the Entrenchment of Poverty in the Niger Delta of Nigeria' (2004)15 (1) *Journal of Human Ecology* 65.

²³ Ozogu N. Agbe, *et al*, 'Negative Effects of Gas Flaring in Niger Delta, Nigeria: Case Study, Oporoma' (2020)4 (10) *International Journal of Academic Engineering Research* 32.

²⁴ O. Nwagbara, 'Environmental degradation in the Niger Delta: A Human Rights Perspective' (2009)44 (3) *Africa Spectrum* 99-116.

²⁵ Kingsley E. Ukhurebor, *et al*, 'Petroleum spills and the communicative response from petroleum agencies and companies: Impact assessment from the Niger Delta Region of Nigeria' (2023)*The Extractive Industries and Society* <<https://www.sciencedirect.com/science/article/abs/pii>> accessed 18 June 2026.

²⁶ O. A. Emuedo, *et al*, 'Oil Pollution and Water Quality in the Niger Delta: Implications for the Sustainability of the Mangrove Ecosystem' (2014)14 (6) *Global Journal of Human-Social Science* 10-16.

subjected to abject poverty and premature deaths. Even when the oil companies embark on community development projects in the region, the projects are not only unsustainable but also fail to address the core needs of the victims of pollution.²⁷ Frustrations push people to embark on protests especially in view of the silence or inaction of the government in safeguarding its own citizens against the operations of the multinational companies. That is why violence and protests are very common in the region and sometimes result in clashes between the protesters and the security operatives. Some clashes have led to the loss of lives and properties. According to Zheng;

In October 1990, the Mobile Police, an elite paramilitary unit, torched 595 houses and killed 80 people with guns and grenades in the Umuechem village for peacefully protesting against petroleum companies in town. In April 1993, the Nigerian government shot 11 people at the Biara village when protesters tried to stop a new pipeline being laid by Shell contractors.²⁸

Environmental degradation in the region amounts to violation of people's right to life which is guaranteed under section 33 of the 1999 Constitution because anything that affects people's health, environment or sources of livelihood also affects their lives as held in the case of *Jonah Gbemre v. Shell*. Oil pollution affects right to food, water, shelter, human dignity and decent life as held by the African Commission in *SERAC v. Nigeria*.²⁹ In the Indian case of *Subhash Kumar v The State of Bihar*,³⁰ the Court stated unequivocally that the right to life includes the right to the enjoyment of pollution-free water and air for full enjoyment of life.³¹ Environmental right has been recognized in many constitutions around the world and other international human rights instruments but not so in Nigeria.³² Right to own immovable property is a fundamental right guaranteed under section 43 of the 1999 Constitution. Immoveable property refers to land and landed properties.

Section 20 of the same Constitution made it obligatory on the government to safeguard the environment, including air, water, land, forest and wildlife of Nigeria. The impact of

²⁷ O. J. Akpogheli, et al, 'Oil Spill and the Effects on the Niger Delta Vegetation: A Review' (2021)9 (1) *Nigerian Research Journal of Chemical Sciences* 2.

²⁸ Elizabeth Zheng, supra at p. 123

²⁹ (2002) AHRLR 60 CACHPR 2001

³⁰ (1991) AIR (SC) 420.

³¹ Similar decision was also arrived at in *Sanjev Prakash* (1995)4 NQHR 403, 419

³² See Article 24 of the 1996 Constitution of South Africa which guarantees environmental right as a fundamental right to the citizens of the country.

this provision is not felt in the Niger Delta as the environment, lives and properties in the region are destroyed with impunity. The Nigerian government is fully aware of the risks posed by oil pollution on the people but has failed to enforce the laws and adopt other measures to curtail the pollution. That is why Akinwumiju, *et al*, restated that the government of Nigeria is to be blamed for what is happening in the region due to its failure to enforce the laws to protect the people and the environment.³³ Consequently, there is a growing wave of litigations against the multinational companies. Procrastination is a thief of time especially in respect of environmental issues that are very delicate. That is why some environmental activists, Dr. Isaac Osuoka and Dr. Emem Okon asserted that the time to act is now.³⁴ In their own words:

It is clear that the time for action is now. The data is conclusive, and the need for intervention is urgent. Let us work together to address this pressing issue and protect the health and well-being of the communities....³⁵

3. Struggle for Environmental Justice in the Niger Delta

The struggle for environmental justice in the Niger Delta region of Nigeria is one of the oldest movements for equitable access not only to their natural resources but also to the courts for ventilation of grievances arising from environmental degradation in the region. The struggle stems from decades of environmental pollution, delayed remediation, loss of rights to ancestral lands, marginalization, ravaging poverty, corporate imbalance, unjust laws, weak enforcement of relevant laws, youth unemployment, government neglect and frustrations of litigations.³⁶ The struggle has led to the formation of different groups and movements such as the Niger Delta Avenger (NDA), Niger Delta Peoples Volunteer Force (NDPVF), the Movement for the Survival of the Ogoni People (MOSOP), Movement for the Emancipation of Niger Delta (MEND), Environmental Rights Action (ERA), Center for Environment Human Rights and Development (CEHRD), among

³³ Akinola S. Akinwumiju, *et al*, 'Geospatial Assessment of Oil Spill Pollution in the Niger Delta of Nigeria: An Evidence-Based Evaluation of Causes and Potential Remedies' (2020)267 *Environmental Pollution* 202.

³⁴ Olusegun Samuel, 'Decades of Oil Pollution in Bayelsa Triple Cancer Risk, Reduce Life Expectancy' (2026) *ThisDay*, 29 May 2026, 53.

³⁵ *Ibid*.

³⁶ Urenmisan U Afinotan, *Environmental Justice and Resilience in the Niger Delta*, PhD Thesis, Dundee Law School, 2022 <<https://discovery.dundee.ac.uk/en/studentTheses/environmental>> accessed 20 June 2022.

others.³⁷ They are all driven by collective actions to promote environmental justice and reduce environmental degradation and destruction of their ancestral lands by the multinational companies with impunity.

In 1993, for instance, MOSOP under the leadership of Ken Saro-Wiwa (now late) forced Shell out of Ogoni land due to reckless destruction of their environment by the company and the attendant poverty visited on the Ogoni people.³⁸ Some of the environmental activists in the region have been harassed, beaten, arrested, tortured and detained while others have been killed in the process. For instance, Ken Saro Wiwa and 8 other Ogoni people lost their lives in the struggle as they were arrested, tried, convicted and executed in Port Harcourt, Rivers State, on 10th November 1995 after a grossly unfair trial by the military government of Sani Abacha in violation of the international due process standards.³⁹ The kangaroo trial and executions were condemned by the international observers, human rights activists and Non-Governmental Organizations such as Amnesty International. The controversial execution led to accusations and long legal battle against Shell for masterminding the executions in collaboration with the Nigerian government, and in 2009, Shell paid the sum of \$15.5 million in the US out-of-court settlement.⁴⁰ Ojo and Tokunbor lamented that;

Since, the extra-judicial killing of Ken Saro Wiwa and other eight activists on November 10 1995 for daring to challenge Shell over 5,000 other Ogonis have been murdered. Thousands more have lost their lives....⁴¹

Preeminent among these environmental activists was Oronto Douglas, a co-founder of the Environmental Rights Action (ERA)/Friends of the Earth which was in the forefront in the struggle for environmental justice in the Niger Delta region. He engaged in community mobilization and legal advocacy for environmental justice and was instrumental to the documentation of the ecosystem destruction and human rights abuses

³⁷ ThankGod F. Lilly-Inia & Chimezie C Eze, 'Environmental Issues and Activism in the Niger Delta' (2025)11 (10) *International Journal of Social Sciences and Management Research* 206

³⁸ Susan Farbstein, 'Remembering Ken Saro-Wiwa: The Struggle Continues in the Niger Delta' (2015) *International Human Rights Clinic* <<https://humanrightscclinic.law.harvard.edu/remembering>> accessed 20 June 2026.

³⁹ Marion Campbell, 'Witnessing Death: Ken Saro-Wiwa and the Ogoni crisis' (2002)1 *Postcolonial Studies Culture Politics Economy* 39-49.

⁴⁰ ThankGod F. Lilly-Inia & Chimezie C Eze, *supra*.

⁴¹ Godwin Uyi Ojo & Nosa Tokunbor, 'Access to Environmental Justice in Nigeria: The Case for a Global Environmental Court of Justice' (2016) Environmental Rights Action, Friends of the Earth International, <<https://www.foei.org/wp-content/uploads/2016>> accessed 20 June 2026.

in the region by the multinational oil companies.⁴² He was arrested and tortured on several occasions by the successive military regimes in Nigeria especially in the 90s, yet he was not deterred in the struggle for justice and the protection of his people from the activities of the government in connivance with the oil companies. He was the first environmental activist in the Niger Delta region of Nigeria to gain access to the White House in the United States of America, hosted by the American President, Bill Clinton, where he presented the philosophy behind the Niger Delta struggle to the President.⁴³ He travelled to many countries of the world and presented well researched papers in international conferences where he brought the environmental degradation in the Niger Delta region to global attention. This is in addition to other strategies he adopted to bring the multinational companies to account, such as mobilization of rural women for non-violent protests and litigations against consequences of oil extraction.⁴⁴

Another dimension of the struggle for environmental justice in the region was through the women-led Movements such as the Kebetkache Women Development and Resource Centre, the Noble Delta Women for Peace and Development International. They mobilize women predominantly from the Niger Delta and host landmark empowerment conferences and climate justice sessions to address issues of environmental degradation, remediation and justice.⁴⁵ For instance, they hosted a five-day seminars and workshops in Port Harcourt, from 7th – 11th July 2011 where more than 300 participants from Nigeria and beyond, including women, youths traditional rulers, government representatives, Non-Governmental Organizations and scientists, met to discuss the necessity of integrating climate action and community empowerment in the Niger Delta region.⁴⁶ Their major demand was that the government and the multinational companies operating in the region should give environmental remediation and human health priority in their scheme of things. They stated unequivocally that the Niger Delta region blessed

⁴² Ibid.

⁴³ See the Editorial, 'Adieu Oronto Douglas' (2015) *The Guardian*, 11 April 2015, 45.

⁴⁴ G. U. Ojo & Jayeoba Gaskiya (2003) *Environmental Laws in Nigeria: A Critical Review* 36.

⁴⁵ Anetochukwu Nworgu, 'Environmental Justice In The Niger Delta Vis-À-Vis The Political Desire For Uninterrupted Flow Of The Petro-Dollar; Striking A Balance For Sustainable Development' (2025)5 (1) *Chukwuemeka Odumegwu Ojukwu University Journal Of Commercial And Property Law* 87.

⁴⁶ Nsemeke F Asanga, *Niger Delta Women Demand Climate Justice and Community Empowerment at Landmark Conference* Jul 14, 2025 <<https://www.kebetkachewomencentre.com/post>> accessed 20 June 2026.

with abundant natural resources does not require sympathy from the government and the oil companies but to do the needful by ensuring justice, empowerment and accountability.⁴⁷

In the recent past, the struggle for environmental justice in the region has taken a criminal dimension of pipeline vandalism, oil theft, kidnapping and hostage taking of the oil workers. What started as legitimate agitations for environmental justice suddenly morphed into criminal enterprises because actions were not taken early enough by the government and the companies to nip it in the bud.⁴⁸ The foreign oil workers have become the targets of these kidnappers today. They kidnap and collect ransom worth of billions from the expatriates and oil workers in retaliation to the oppressions and environmental degradation.⁴⁹ Some of the militants once claimed responsibility for the kidnapping and hostage taking of the oil workers.⁵⁰ The criminal aspect of the struggle is counterproductive because the insecurity in the Niger Delta region is affecting everybody. The pipeline bunkering and the oil theft have compounded the environmental condition in the region. Furthermore, the government of Nigeria as well as oil companies has also lost billions of dollars to the pipeline vandalism.⁵¹ According to Ogbodo:

Thus, foreign oil workers have become easy prey for this corrupt and violent business. When these hostages are taken, huge sum of money is always involved in the negotiation for release. The question that now agitates peace builders in the Niger Delta is whether the motive of this struggle has not been misplaced. Are they terrorists of freedom fighters?⁵²

⁴⁷ Patricia Glazebrook & Anthony Kola-Olusanya, 'Justice, Conflict, Capital, and Care: Oil in the Niger Delta, (2011)33 (2) *Environmental Ethics* 163-184.

⁴⁸ J. S. Omotola, 'Liberation Movements and Rising Violence in the Niger Delta: The New Contentious Site of Oil and Environmental Politics' (2010) 33 *Journal of Conflicts* 38.

⁴⁹ Senator Akaenye & Simon Onosakponome, 'Restive Youths and the Challenges of Oil Theft in the Niger Delta Region of Nigeria' (2023)9 (10) *International Journal of Social Sciences and Management Research* 94

⁵⁰ See 'Chronology: Attacks in Nigeria's Oil Delta' *Reuters* 4 June 2008, <<http://www.reuters.com/article/latestCrisis/idUSL04786711>> accessed 20 May 2026. See also Glory Ene, *Promotion of environmental justice in Nigeria: A panacea for a sustainable environment* 92.

⁵¹ E. E. Osaghae, 'The Ogoni Uprising: Oil, Politics, Minority Agitation and the Future of the Nigerian State' (1995) 94 (376) *African Affairs* 325

⁵² Stephen M Ogbodo, 'Environmental Issues and Nigeria's Niger Delta Crisis: Implications for Sustainable Development and Global Peace' (2010)2 (3) *International Journal of Sustainable Development* 19.

4. Self-initiated environmental litigations by concerned citizens

Citizens' initiated environmental litigations serve as vital tool for environmental justice and accountability in the Niger Delta region of Nigeria. The victims of oil pollution and gas flaring often rely on civil litigations based on common law remedies of negligence, the rule in *Rylands v. Fletcher*,⁵³ trespass to land and nuisance to seek environmental justice. Some actions are instituted to protect rights under the Constitution while others are instituted for statutory remedies against the oil companies or state-owned corporations. It was reported that between early eighties and late nineties, there was over 500 oil-related suits against Shell alone while Chevron had 200.⁵⁴ Records revealed that access to environmental justice through litigations is almost non-existent in the Niger Delta region of Nigeria. An insignificant percentage of the litigants was able to scale through the hurdles and successfully claimed compensations against the companies while almost 90% of the litigants lost their cases.

An instance is the case of *NNPC v. Sele*⁵⁵ where communities instituted action against the Nigerian National Petroleum Company (NNPC) for negligence resulting in the spillage of oil from the company's oil wells which severely affected the farmlands, creeks and other properties belonging to the communities. The trial court awarded the sum of N18,329,350.00 damages to the plaintiffs. Appeals to both the Court of Appeal and the Supreme Court against the decision of the trial court were dismissed. Similarly, the victims of pollution in the case of *Shell v. Farah*⁵⁶ successfully claimed 4.6 million damages against Shell due to crude oil spills and toxic gas emissions which destroyed the farmlands, crops, economic trees and natural vegetation of the plaintiffs in K. Dere town, now in Gokana/Tai/Eleme Local Government Area of Rivers State. The insistence by Shell that the case was statute-bared as it was commenced many years after the incident was rejected by the appellate court. The decisions of the courts in these two cases above are quite encouraging to litigants seeking environmental justice.

⁵³ (1868) LR 3 HL 330

⁵⁴ J. G. Frynas, 'Legal Change in Africa: Evidence from Oil-Related Litigation in Nigeria' (2009)43 (2) *Journal of African Law* 121 – 150

⁵⁵ (2004) 5 NWLR pt. 866 at 383

⁵⁶ (1995) CLR 4 (C) CA

While the decisions are applauded, numerous other similar cases are fraught with difficulties that frustrate genuine claims. Traditional rules of *locus standi*, high standard of proof, poverty and high cost of litigations, undue delays and want of jurisdictions have frustrated many victims of oil pollution in Nigeria who approached the courts for justice. Many returned home empty handed after many years of litigations. Their belief is that there is no hope in the Nigerian judiciary after they dissipated their resources and energy on litigations with minimal or no results.⁵⁷ Some cases are examined to illustrate the difficulties. An instance is the case of *Abel Isaiah v. Shell*⁵⁸ which was frustrated due to want of jurisdiction. The cause of action arose in 1988 in Isiokpo, Rivers State, when a tree fell and broke the defendant's oil pipeline which caused massive spillage and affected the plaintiff's farmlands. The action was already pending at the Rivers State High Court before the regime of Ibrahim Babangida promulgated Decree 107 of 1993 which ousted the jurisdiction of the state High Courts over oil-related disputes. The victims of the pollution who were already awarded N22 million damages by the Rivers State High Court lost at the Supreme Court for want of jurisdiction. They returned home with nothing after many years of litigation. The apex court reechoed in this case that even when a case is already pending in the court before a decree is signed removing its jurisdiction, continuing with the same case amounts to exercise either in moot or an academic exercise.⁵⁹ Condemning the injustice apparent in this case, a renowned academic scholar stated that;

The decision of the Supreme Court of Nigeria in the case of *Shell Petroleum Development Company of Nigeria Limited v Abel Isaiah* underscores how technical justice can undermine environmental integrity.⁶⁰

The case of *SPDC v. Tiebo VII*⁶¹ also illustrates the difficulty and frustrations of litigations against multinational oil companies in Nigeria. The case lasted 18 years in the courts (1987-2005) but the victims of oil spillage from Shell went home with nothing because they failed to prove special damages as required by law. The first court awarded

⁵⁷ Abdulwasi Musah, 'The Courts and the Challenges of Adjudicating on Environmental Rights Actions in Nigeria' (2019) VI (IX) *International Journal of Research and Scientific Innovation* 47.

⁵⁸ (2001) 5 S.C. (Pt. 11) 1

⁵⁹ Ibid

⁶⁰ Fagbohun Olanrewaju, 'Jurisdiction of Nigerian Courts in Environmental Matters: A Note on *Shell v Abel Isaiah*' (2015) 24 (2) *Journal of Energy and Natural Resources Law* 216.

⁶¹ (2005) \$ FWLR Pt. 283, 674

the victims general damages in lieu of special damages which they were unable to explicitly prove. Supporting its decision, the court stated that the failure of the victims to precisely calculate the economic value of the destroyed raffia palms and drinkable water does not mean that they did not have any economic value. Their mere failure to put their claims across properly was insufficient to deny them justice in view of the level of environmental damage they suffered. On appeal to the Supreme Court, the apex court quashed the decision of the trial court and held that it was wrong for the court to award general damages when the claimants were unable to prove special damages. Therefore, their case must crumble.⁶²

The case of *Ambah v. Shell*⁶³ typically exemplifies the herculean task of instituting suits against multinational oil companies in Nigeria. The case lasted 19 years in the courts and the victims of devastating pollution went home with N27,000.00 only. It was centered on oil pollution from Shell that destroyed fish ponds, creeks, crops and other properties of the plaintiff who claimed N27,000.00 as special damages while N3,000.00 was general damages at the commencement of the case in 1986, totaling N30,000.00 damages. Unfortunately, the case lasted eleven years in the court of first instance. Before the judgment was delivered in 1987, the plaintiff's counsel amended the statement of claim and multiplied the initial claim of N27,000.00 into eleven years which was N297,000.00 at the rate of N27,000.00 per annum. Considering the delay and the effect of inflation, both the High Court and the Court of Appeal entered judgments for the plaintiffs. Shell made appeal to the Supreme Court against the multiplication of claims into number of years. The appeal was allowed. The Supreme Court stated that 'where there is a claim for total destruction of property, the measure of damages will be the value of the property at the time of its destruction'.⁶⁴ Consequently, the N297,000.00 damages awarded the plaintiffs by the High Court and the Court of Appeal was reduced to of N27,000.00 after 19 years of litigation of which two-third of the victims had died. The court could not consider the years spent in the courts, the cost of litigations, the stress, the damage to the victims' sources of livelihood such as farms, crops, fish ponds and the impact of

⁶² See Joseph N. Nwazi, 'A Critique of Court's Insistence on the Operation of the Regular Standard of Proof in Oil-Related Litigations between Two Unequal Parties' (2007)2 (1) *Ikeja Bar Review* 96.

⁶³ (1999)3 NWLR Pt. 593, SC 1

⁶⁴ Per Ogwuegbu JSC at 15-16, paras G-A

inflation. That is why Ebeku lamented that victims of oil pollution in the Niger Delta region can only go to court as a last resort due to frustrations.⁶⁵ He therefore observed that:

Litigation often provides an avenue for the oil multinational giants to dodge the payment of compensation totally or for a good time or get off lightly. Specifically, litigation provides them the advantage of continuing with the operations undisturbed whilst the case suffers undue delay which is almost endemic in the Nigerian judicial system....⁶⁶

In some cases, the courts may play its own roles but the influence of the government in collaboration with the oil companies may jeopardize the enforcements. The case of *Jonah Gbemre v. Shell* is a classic example of oil pollution case with sound court judgment but no enforcement after over two decades. It was gas flaring case that originated from Iwherekan Community in Delta State. The action was filed at the Federal High Court, Benin City that had the jurisdiction to determine the matter. Then, Delta State had no Federal High Court. The judgment was delivered in 2005 in favour of Jonah Gbemre and his community just five months after the action was filed at the Federal High Court, Benin City. All efforts to delay the proceedings by the oil company and its counsels, including application for adjournment, were resisted by Judge, Justice C. V. Nwokorie. The court declared that gas flaring in the community with the attendant health implications was a violation of the right to life guaranteed under section 33 of the 1999 Constitution and so unconstitutional. The court further directed that the company should take immediate steps to stop gas flaring in the plaintiff's community by April 2007. Till date, the judgment was not enforced and the company continues with its routine gas flaring undisturbed after over two decades.⁶⁷ The Judge was thereafter transferred to another judicial division in the Northern part of the country and the case file got missing thereby frustrating the entire case and the judgment.⁶⁸

⁶⁵ Kaniye Ebeku, 'Compensation for Damage Arising from Oil Pollution: *Shell Petroleum Development Company Nig. v. Ambah* Revisited' (2002) 6 (1) *Nigerian Law and Practice Journal* 19.

⁶⁶ Ibid. See also Abdulwasi Musah, 'The Courts and the Challenges of Adjudicating on Environmental Rights Actions in Nigeria,' (2019) VI (IX) *International Journal of Research and Scientific Innovation* 45 - 52.

⁶⁷ Ayodele Morocco-Clarke, *The Case of Gbemre v Shell: A Catalyst for Change in Environmental Pollution Litigation?* 2021 <<https://www.researchgate.net/publication/361268457>> accessed 21 June 2026. See also Adewale Ombolaji, 'Oil Spill Compensation Claims in Nigeria: Principles, Guidelines and Criteria' (1989) 33(1) *Journal of African Law* 93.

⁶⁸ Lawrence Atsegbua *et al*, *Environmental Law in Nigeria: Theory and Practice*, 3rd ed. 2026, 209.

5. Agbara & Ors v. Shell Petroleum Development Co. Nig. Ltd.⁶⁹

This is one of the oil pollution cases in Nigeria that lasted 32 years in the courts featuring series of interlocutory applications, judgments and cross appeals and at the end, the plaintiffs smiled home with substantial amount as damages from Shell. The judgments were remarkable and a source of hope and encouragement to victims of pollution and other environmental activists. They represented the courts as the last hope of the common man.⁷⁰ Other courts in Nigeria handling environmental litigation cases should borrow a leaf from this case.

5.1 Overview of the Case

This case originated from a devastating crude oil blow out in 1970 at Ejama-Ebubu community in Rivers State with over 2,000,000 barrels of oil that spilled and caused environmental damage to the community. Chief Isaac Osaro Agbara and others instituted the action and claimed N17b damages against Shell and its subsidiaries for the damage caused the community, inconveniences and the failure of Shell to carry out remediation. In 2010, the Federal High Court in Rivers State delivered the judgment and awarded the community N15.4 billion as special and punitive damages and directed Shell to carry out clean-up of the polluted area. All the efforts made by Shell to frustrate the hearings, including series of applications for adjournments, were resisted by the court.

Shell was dissatisfied with the judgment and made appeals to the Court of Appeal and the Supreme Court to quash the judgment which the two appellate courts dismissed for being incompetent. Shell thereafter applied to the Supreme Court to review its final decision because it (Shell) was not accorded adequate opportunities of fair hearing. The application was also rejected by the Supreme Court. When the plaintiffs registered the judgment at the United Kingdom High Court to enforce it against Shell's local assets, Shell promptly applied to the UK High Court to set aside the registration on the ground that the judgment was obtained in Nigeria with substantial breach of natural justice and

⁶⁹ Suit No. FHC/ASB/CS/231/2001 (June 14, 2010), (2019) EWHC 3340 (QB)

⁷⁰ Aloh N Julius & Uwakwe Fidelis, 'Expanding the Frontiers of Compensatory Rights of Victims of Environmental Pollution in Nigeria: A Perspective of *SPDC v. Agbara* (2022)4 (1) *Chukwuemeka Odumegwu Ojukwu University Journal of Private and Public Law* 204.

due process. The UK court granted Shell's application and blocked the registration and enforcement of the Nigerian judgment in the UK.⁷¹

In the year 2020, the Federal High Court in Nigeria ordered the Central Bank of Nigeria to pay the Ejama-Ebubu community the sum of N182.8 billion from Shell's accounts being the initial damages and the cumulative interests. It was in August 2021 that Shell finally agreed to pay the sum of N45.9 billion to the Ejama-Ebubu community as compensation for the damage caused the community in 1970 after all its efforts to influence the Supreme Court to review its 2019 decision failed. That was after 3 decades of litigations after some of the original litigants had passed on. This decision is an eye opener to the multinational oil companies that the Nigerian judiciary can stand firm and resist the machinations of the companies and the Nigerian government on issues involving environmental protection. It is also a signal to the companies that it is no longer business as usual where people's rights are compromised because of revenue generation to the government.⁷² Therefore, the companies should be more responsible and accountable to the host communities in the Niger Delta region of Nigeria. Aloho and Ndukwe re-echoed that:

The case on the other hand is a hope raiser. It has demonstrated that MNOCs can be held accountable over environmental harms caused by them.... Environmental pollution victims will now be more courageous to approach the courts for the redress of their rights. They do not have to be scared due to the financial muscle of MNOCs while approaching the courts. Once their claim is genuine, they are free to go to court.⁷³

6. Conclusion

An attempt has been made to examine the sustained struggle for environmental justice in the Niger Delta region of Nigeria which is fanned by the activities of the oil companies in collaboration with the politicians and government of Nigeria. We have seen in this research that glaring cases with genuine claims are lost by victims of oil pollution not for lack of merit but on the basis of want of jurisdiction, locus standi, or the financial muscle

⁷¹ See David Birchall, 'Corporate Power over Human Rights: An Analytical Framework' [2020] 5 (1) *Business and Human Rights Journal* 19.

⁷² Cleverline T Brown & Nlerum S. Okogbule, 'Redressing Harmful Environmental Practices in Nigerian Petroleum Industry through the Criminal Justice Approach' (2020) 11 (1) *Journal of Sustainable Development Law and Policy* 18.

⁷³ Aloho N Julius & Uwakwe Fidelis (n 70).

to procure the services of experts to establish a case. Some decisions taken by some courts such as in *Abel Isaiah v. Shell*, *Tiebo VII v. Shell* and *Ambah v. Shell* have, with utmost respect, compounded the plights of the victims of pollution who approached these courts for rescue as the last hope of the common man. This trend has to a large extent dampened the confidence of the victims on the judiciary and the administration of justice that operates in Nigeria. When a state fails in its constitutional obligation to safeguard the environment and the lives and properties of its citizens against multinational oil companies, it poses much danger as we have in the Niger Delta region of Nigeria. The foregoing scenario renders imperative the need for some courts to reverse their gear by changing their own trends on issues involving the victims of pollution and the multinational companies.

The heat generated by the agitation in the region for environmental justice is enough to wake the government of Nigeria from slumber before it becomes too late. Pipeline vandalism in retaliation to environmental degradation has cost both the government and the oil companies billions of dollars. The philosophy behind the sustained struggle is nothing other than to ensure environmental justice in the region. The judiciary should be allowed to deliver judgments without influence. Lessons could be learnt from the courts' approach in the case of *Agbara & ors v. Shell* where the courts stood firm against all odds to ensure that justice is done. People are happy when there is justice founded on good court judgments. That is the best way to douse tensions and agitations. It is therefore suggested that the government and the oil companies should invest more in the region to control the unrests resulting from environmental degradation instead of continued exploitation to maximize revenue generation at the detriment of the citizenry. The companies should not be scheming to evade justice at all costs. It is counterproductive.