

THE IMPACT OF OIL SPILLS ON FOOD SECURITY: ADDRESSING NIGERIA'S LEGAL AND INSTITUTIONAL FRAMEWORK

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Abstract

Oil pollution is one of the most pressing environmental challenges in Nigeria, particularly in the Niger Delta, where crude oil exploration and production have led to widespread land and water contamination. This environmental degradation has had severe socio-economic consequences, particularly in food security. Farmers and fishermen, who rely on natural resources for their livelihoods, face declining yields, soil infertility, and the destruction of aquatic habitats due to frequent oil spills. The pollution of water bodies and farmlands has resulted in reduced agricultural productivity, increased food prices, and heightened economic hardship for affected communities. The paper adopts doctrinal method of legal research in examining the existing legal and institutional framework for control of oil spillage in Nigeria. The paper finds that despite the existence of regulatory frameworks such as the Petroleum Act, the National Oil Spill Detection and Response Agency (NOSDRA) Act, and the Oil Pipelines Act, weak enforcement has allowed oil companies to evade accountability. Regulatory agencies such as NOSDRA and the National Environmental Standards and Regulations Enforcement Agency (NESREA) face significant operational challenges including inadequate funding, lack of independence, and overlapping mandates that hinder effective oversight of oil pollution. Moreover, the exclusion of NESREA from monitoring activities within the oil and gas sector further weakens environmental governance. The paper recommends that legal reforms are necessary to impose stricter penalties for oil spills, enhance the independence of regulatory bodies, and recognize food security as a justiciable right under Nigerian law. The paper recommends further that the government must mandate oil companies to contribute to an environmental remediation fund, promote sustainable agricultural practices, and empower local communities to participate in environmental monitoring. The paper also recommends strengthening of the Nigerian environmental laws and policies as crucial way to mitigate the impact of oil pollution on food security and ensuring sustainable development in oil-producing regions.

Key words: Oil Spill, Food Security, Legal Framework, Institutional Framework, Gaps in the Framework

1.0 INTRODUCTION

There is no doubt that the world we live in today is vastly different from primitive times when humans coexisted harmoniously with nature and their surroundings. Back then, waste generation and disposal were not major concerns. However, with humanity's large-scale domination of nature, the natural mechanisms for waste disposal have been disrupted. As a result, humans are now

responsible not only for producing their food, tools, and conveniences but also for managing waste, including highly toxic substances.¹ The water available for consumption is increasingly impure, contaminated with chemicals and hazardous substances, leading to a steady decline in both its quality and volume. Food production has drastically declined, and what remains is tainted with toxic, hazardous, and even carcinogenic elements. More so, the prevalence of environmentally induced diseases has become a growing concern. This is the reality of today's world—one shaped by self-inflicted environmental destruction, particularly in the oil and gas industry, under the guise of development and energy exploration.²

In Nigeria, crude oil exploration dates to 1908, with the first discovery recorded in the Araromi area of Ondo State.³ Later, in 1946, Shell D'Arcy, now known as Shell Petroleum Development Company (SPDC) of Nigeria, discovered oil in Oloibiri. Commercial oil production in the Niger Delta commenced in 1958 after crude oil was discovered at Oloibiri by Shell British Petroleum (now Royal Dutch Shell) in 1956.⁴ While oil discovery has generated substantial revenue for Nigeria, it has also brought relentless environmental degradation and deepened poverty, particularly for the people of the Niger Delta.

As Nigeria's primary oil-producing area, the Niger Delta witnesses the extraction of large quantities of crude oil daily, with severe cases of oil spills reported frequently.⁵ Many residents, primarily farmers and fishermen/women, struggle with the twin challenges of underdevelopment and restricted access to essential services such as clean drinking water, healthcare, and quality education.⁶ Oil extraction has further worsened conditions in the region by contaminating natural water bodies (streams, rivers), disrupting aquatic habitats, and destroying farmlands and mangrove

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¹ A Uchegbu, 'The Legal Regulation of Environmental Protection and Enforcement in Nigeria' *Journal of Private & Property Law*, (1988/89) 58.

² NG Ikpeze, 'The Environment, Oil and Human Rights in Nigeria', *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, (2011) 2, 88

³ BO Oshwofasa, DE Anuta, and JO Aiyedogbon, 'Environmental Degradation and Oil Industries Activities in the Niger Delta Region', *African Journal of Scientific Research (AJSR)*, (2012) 9 (1) <<http://www.journalsbank.com/index>> Accessed 1 November 2017.

⁴ Ibid.

⁵ SO Aghalino, 'Petroleum Exploitation and the Agitation for Compensation by Oil Producing Communities in Nigeria' *GeoStudies Forum* (2002) 11-20.

⁶ *ibid.*

ecosystems.⁷ One of the critical areas impacted by oil spills is food security. In 2017, the Food and Agriculture Organization (FAO) and other international bodies reported that approximately 815 million people worldwide suffer from hunger, translating to 11% of the global population experiencing chronic hunger or undernourishment.⁸ Food security is achieved when all individuals have consistent physical, social, and economic access to adequate, safe, and nutritious food that meets their dietary requirements and preferences for a healthy and active life.⁹ It encompasses food availability and accessibility but, more importantly, food affordability.¹⁰

In situations where these three conditions are not met, there is food insecurity. The connection between hunger and oil spill lies in the disruption of natural systems and resources essential for food production. Oil Spills contaminates soil, water, and air, which directly impacts agricultural yields, food safety, and the livelihoods of communities dependent on farming and fishing. This disruption creates a ripple effect, reducing the availability, accessibility, and quality of food, thereby intensifying hunger and food insecurity.

It is for this reason that this article intends to show that oil spill with the resultant chemicals and toxins released into the environment affects food security negatively; thereby creating a need to analyse and review the legal framework governing oil spillage and its effects on food security. There are various laws that have been enacted to combat oil spillage and institutions saddled with the responsibility of monitoring and cleaning up oil spillages. However, these laws have not adequately ensured food security especially as it is affected by oil spills, neither have the institutions lived up to expectation. This work will analyse the existing laws and advocate for their review to fight food insecurity caused by oil spillage.

⁷ NS Olaniran, 'Environment and Health: An Introduction' in Olaniran, N.S. *et. al* (Eds.) *Environment and Health*. (Macmillan: Lagos. 1995), 34-151.

⁸ Food and Agriculture Organization, International Fund for Agricultural Development, UNICEF, World Food Programme & World Health Organization. (FAO, IFAD, UNICEF, WFP & WHO). (2017). *The State of Food Security and Nutrition in the World 2017: Building resilience for peace and food security*. Rome. FAO. ISBN 978-92-5-109888-2. Retrieved from <http://www.fao.org/3/a-I7695e.pdf>.

⁹ FS Idachaba, 'Strategic and Policies for Food Security and Economic Development in Nigeria. Abuja: CBN' in TA Amusa, CU Okoye, and AA Enete, *A Review of Economic and Food Security Implications of Critical Environmental Challenges on Nigerian Agriculture in Chukwuemeka Okoye and Daniel Abah, Dynamics of Natural Resource and Environmental Management in Nigeria: theory, practice, bureaucracy, advocacy* (Debees Printing and Publishing Company, Nsukka, Enugu State, Nigeria, 2018) 290-312

¹⁰ Ibid.

2.0 CONCEPT OF OIL SPILL AND FOOD SECURITY

An oil spill occurs when liquid petroleum hydrocarbons are discharged into the environment. This term encompasses spills that take place in oceans, coastal waters, rivers, or on land.¹¹ While oil spills can happen at different stages of petroleum handling—from exploration and production to refining, distribution, and marketing—at least 96% of these spills are linked to the exploration and production phases, making them predominantly localized in oil-producing areas.¹²

Food security refers to the availability, accessibility, acceptability, and affordability of food.¹³ According to the Rome Declaration on World Food Security, food security exists when food is consistently available, all individuals have access to it, and it is nutritionally sufficient in terms of quantity, quality, and variety while being culturally acceptable.¹⁴ It ensures that all people, at all times, have physical, social, and economic access to enough safe and nutritious food to meet their dietary needs and preferences for a healthy and active life.¹⁵ The four core dimensions of food security include the availability of nutritious food, the financial and physical ability to obtain food, the efficiency of food utilization, and the sustainability of these factors.¹⁶ Food security is essential for human survival, contributing to good health, labour productivity, and economic growth.¹⁷ Its absence can lead to hunger, malnutrition, political instability, and an overreliance on food imports, negatively impacting a nation's economy.¹⁸

3.0 CAUSES OF OIL SPILL IN NIGERIA

It is reported that in Nigeria, fifty per cent (50%) of oil spills are caused by corrosion, twenty-eight per cent (28%) by sabotage, and twenty-one per cent (21%) by oil production operations.¹⁹ One

¹¹ Institute of Marine Affairs, Trinidad and Tobago

¹² KBO Ejumudo and FO Nwador, Environmental Management and Sustainable Development in Nigeria's Niger Delta, *Journal of Economics and Sustainable Development*, (2014), 5 (15) 35.

¹³ OS Enilolobo, *et al*, 'Determinants of Food Security' *ACTA UNIVERSITATIS DANUBIUS ECONOMICA (AUDOE)* (2022) 18 (3) 193-209

¹⁴ J Clover, (2003). 'Food Security in Sub-Saharan Africa' <<https://www.researchgate.net/publication/272123749>> accessed 24 January 2025

¹⁵ FAO *State of Food and Agriculture (SOFA). Livestock in the balance.* (FAO, Rome, Italy, 2007).

¹⁶ AMM Irfeey, *et al*, 'Groundwater Pollution Impact on Food Security' *Journal of Sustainability*, (2023) 15 (4202) 2.

¹⁷ PO Agbola, 'Factors influencing food security among small farmers in Nigeria' *African Journal of Agricultural Research*, (2014) 9(27) 2104-2110.

¹⁸ K Havas, & M Salman, Food security: its components and challenges. *Int. J. Food Safety, Nutrition and Public Health*, (2011) 4(1) 25

¹⁹ PC Nwilo and OT Badejo, *Impact of Oil Spill along the Nigerian Coast, Contaminants, Soil sediments and Water* (Kluwer Publishers, the Netherlands, 2001) 44-49

per cent (1%) of oil spills result from engineering drills, failure to effectively control oil wells, machinery breakdowns, and insufficient care in loading and unloading oil vessels.²⁰ Thousands of barrels of oil have been discharged into the environment through the country's oil pipelines and storage tanks. This spillage is largely due to the lack of regular maintenance of pipelines and storage facilities, many of which have been in use for decades without replacement.²¹ Sabotage is another significant cause of oil spills in Nigeria. Some Nigerian citizens, in collaboration with individuals from other countries, engage in oil bunkering, deliberately damaging and destroying oil pipelines to steal crude oil. Oil spills may originate from crude oil transported by tankers; offshore platforms, drilling rigs, and wells; improperly sealed wells; pipeline and storage tank leaks; waste or discarded oil; natural seepage; as well as spills of refined petroleum products such as petrol, diesel, bunker fuel, and their by-products.²² In Nigeria, oil spills frequently occur due to pipeline vandalism, blowouts at wellheads, waste discharge, refinery effluents, or the construction of flow stations near residential communities.²³

4.0 THE LEGAL FRAMEWORK GOVERNING FOOD SECURITY IN NIGERIA

Nearly 60% of annual deaths worldwide—around 36 million—are directly or indirectly caused by hunger and nutritional deficiencies.²⁴ Over 840 million people globally suffer from malnourishment,²⁵ with more than 95% residing in developing countries.²⁶ Among them, 153 million are children under the age of five.²⁷ What is even appalling is that, according to a FAO commissioned study, roughly one-third of the edible parts of food produced for human consumption, gets lost or wasted globally, which is about 1.3 billion ton per year.²⁸ As stated earlier, oil pollution has been identified as one of the factors that affect food production and food security. The pollution of different aspects of the environment affects food availability and

²⁰ Ibid

²¹ Ibid

²² Ibid

²³ O Oluduro, and E Durojaye, 'The Implications of Oil Pollution for the Enjoyment of Sexual and Reproductive Rights of Women in Niger Delta Area of Nigeria' *The International Journal Of Human Rights*, (2013) 17 (7-8) 772-795

²⁴ This figure includes deaths that result from "nutritional deficiencies, infections, epidemics or diseases which attack the body when its resistance and immunity have been weakened by undernourishment or hunger." UNDP, *Human Development Report* (2000).

²⁵ Care USA, Facts about Hunger, <<http://www.careusa.org/campaigns/world-hunger/facts.asp>>. Accessed 22/2/25

²⁶ Ibid

²⁷ Ibid

²⁸ J Gustavsson, *Global Food Losses and Food Waste: Extent, Causes and Prevention*, (FAO, Rome, 2011) 4

accessibility in one way or the other. The former section examined the laws governing oil pollution. In this section, we shall examine laws governing food security in Nigeria.

The recognition of the right to food as a fundamental human right dates to the early years of the United Nations. Even before its establishment, American President Franklin D. Roosevelt highlighted this issue in his January 1941 State of the Union address, famously known as the Four Freedoms speech, where he introduced the concept of "freedom from want."²⁹ This vision laid the groundwork for the Universal Declaration of Human Rights (UDHR), which formally acknowledged the right to food under international law.³⁰

4.1 THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR) 1966

The International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 transformed the right to food from a principle under the UDHR into a legally binding obligation for signatory states. Article 11 of the ICESCR is the cornerstone of this right, recognizing both the right to adequate food³¹ and the right to be free from hunger.³² While the former is a relative standard, the latter is an absolute and fundamental right in both the ICCPR³³ and the ICESCR.³⁴

Member states are required to take action, both independently and through global partnerships, to gradually achieve food security by enhancing agricultural productivity, preserving food resources, optimizing distribution systems, and promoting fair access to food worldwide.³⁵ The three-tier obligation under the ICESCR requires states to respect (refrain from obstructing access to food), protect (prevent third-party interference), and fulfil (facilitate and provide access to food security).³⁶ A state's failure to meet these obligations constitutes a violation unless it proves that resource constraints and unsuccessful international assistance requests hindered compliance.³⁷

²⁹ I Rae, *et al*, 'The Right to Food as a Fundamental Human Right: FAO's Experience' in B Guha-Khasnobis, *et al*, (eds), *Food Insecurity, Vulnerability and Human Rights Failure* (Palgrave Macmillan, New York 2007) 266

³⁰ *Ibid*

³¹ ICESCR Art. 11

³² *Ibid*. Article. 11(2)

³³ The ICCPR implies a right to food as part of the fundamental right to life found in Arti 6. *See* U.N. FAO 'Implications of the Voluntary Guidelines for Parties and Non-Parties to the International Covenant on Economic, Social and Cultural Rights' < <http://www.fao.org/docrep/meeting/007/j1632e.htm>> accessed 1 January 2025

³⁴ S Narula, 'The Right To Food: Holding Global Actors Accountable Under International Law' *Columbia Journal of Transnational law* (2006) 44, 691

³⁵ *Ibid*

³⁶ CESCR General Comment No.12, para. 15

³⁷ General Comment No.12, para. 17

Despite broad recognition, implementation remains weak, with states bearing primary responsibility for enforcement gaps. The ICESCR entered into force in 1976, and Nigeria ratified it on October 23, 1993.³⁸ However, a significant limitation is that Nigeria has not domesticated the treaty, raising questions about its legal enforceability. Additionally, under the doctrine of privity of contract, individual Nigerian citizens cannot directly enforce the government's treaty obligations.³⁹

Furthermore, Article 2 of the ICESCR tempers the enforceability of the right to food by limiting state duties to progressive realization based on available resources. This clause weakens the expansive promise of an adequate food guarantee, as states can cite resource constraints to justify non-compliance. Consequently, while the ICESCR establishes the legal framework for the right to food, practical enforcement remains a challenge.

4.2 THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)

This convention was adopted and opened for signature and ratification by the General Assembly (GA) Resolution 44/25 of November 1989; and entered into force on 2nd September 1990 in accordance with Article 49.⁴⁰ The UNCRC was ratified by Nigeria in 1991.⁴¹ The UNCRC is largely recognised as the leading UN instrument dedicated to the protection of the rights of a child; it is the first legally binding international instrument that recognises, affirms and asserts the rights of a child.⁴² The UNCRC reinforces the right to food as part of a child's right to health. Article 24 obliges states to combat malnutrition and disease by ensuring access to adequate, nutritious food through primary healthcare and available technologies.

³⁸ O Ajigboye, 'Realization of Health Right in Nigeria: A Case for Judicial Activism' *Global Journal of Human Social Science: F Political Science*, (2014) 14 (3) 29

³⁹ In simple terms, the doctrine of privity of contract connotes that generally no one would be entitled to or be bound by the terms of a contract to which he is not a party. See, *Price v. Easton* (1833) 4B & Ad. 433, and *Tweedle v. Atkinson* (1861) 1B&S 393.

⁴⁰ C Cohen, 'The Role of Non-Governmental Organisations in drafting of the Convention on the Rights of the Child' <www.savethechildren.org>. accessed on 17th March 2021, 137.

⁴¹ UNICEF NIGERIA-FACT SHEET', <www.unicef.org/nigeria/childs_rights_legislation_in_nigeria.pdf>. Accessed 3/3/21.

⁴² UNICEF: 20 years of the CRC. <<http://www.unicef.org/rightsic/237.htm>>. Accessed 7/3/21.

4.3 FOOD CONFERENCES

In 1974, the World Food Conference⁴³ held and world leaders resolved that by 1984, “no child will go to bed hungry, no family will fear for its next day’s bread, and no human being’s future and capacities will be stunted by malnutrition.”⁴⁴ However, hunger did not disappear by 1984. Decades later, the grim reality is that more people face uncertainty about their next meal than in 1974, despite the world becoming significantly wealthier and producing surplus food. In industrialized countries, overproduction driven by agricultural subsidies, especially in the U.S. and the EU, has resulted in challenges like “food mountains” and “drink lakes.”⁴⁵ In contrast, many poorer nations continue to suffer from underproduction due to limited technology, environmental pollution and agricultural inputs.

In 1996, world leaders gathered again at the World Food Summit in Rome,⁴⁶ expressing anger at the ongoing global hunger crisis, which left over 800 million people without sufficient food. Unlike the 1974 conference, where food production was the primary focus, the 1996 summit acknowledged that the true issue lay in access to food rather than availability.⁴⁷ Despite pledges to halve global hunger within two decades, progress has been minimal. As 2015 (which was the target

⁴³ The World Food Conference was convened pursuant to UN General Assembly Resolution 3180 (XXVIII) of 17 December 1973, with a view to ‘developing ways and means whereby the international community as a whole would take specific action to resolve the world food problem within the broader context of development and international economic cooperation.’ The Conference adopted the Universal Declaration on the Eradication of Hunger and Malnutrition and twenty resolutions, which were endorsed by General Assembly Resolution 3348 (XXIX) of 17 Dec 1974. See Report of the Conference, E/CONF.65/20 (1975), or U. N. Publication, Sales No:E.75.II.A.3 (1974)

⁴⁴ This much quoted statement that ‘within a decade no child will go to bed hungry...’ was first made by then USA Secretary of State, Henry Kissinger. But subsequently, it was incorporated into the first Resolution adopted by the Conference regarding objectives and strategies of food production, which set the target of eradicating hunger and malnutrition within a decade’s time. From technical point of view, the declaration was hardly unrealistic, as it was buttressed by empirical evidence that ‘society already possesses sufficient resources, organizational ability and technology and hence the competence to achieve [the] objective,’ as reaffirmed by the Declaration.

⁴⁵ Yigzaw, Destaw, *Hunger and the Law: Rethinking the Right to Food* (November 20, 2011). Available at SSRN: <<https://ssrn.com/abstract=1962391>> or <http://dx.doi.org/10.2139/ssrn.1962391>

⁴⁶ Food is not the exclusive domain of human rights law. The issue cuts across various spheres of contemporary international law. A wide range of international regimes and institutions involved in food production, innovation, trade, distribution, and so on, play a role in the realization of the right to food. Accordingly, not only heads of States, but also leaders of IMF, ILO, WTO, United Nations Population (UNFPA), United Nations Environment Programme (UNEP), United Nations Population Fund (UNFPA), World Meteorological Organization (WMO), United Nations Industrial Development Organization (UNIDO), International Atomic Energy Agency (IAEA), and others attended the 1996 World Food Summit.

⁴⁷ The World Food Summit that was held from 13-17 November 1996 was concluded with the adoption of the Rome Declaration on the World Food Security and the World Food Summit Plan of Action.

year) approached, the number of people experiencing hunger had increased since 1996. Commitments to combat hunger have been largely ignored, lacking concrete follow-up mechanisms, and are nonbinding. While world leaders reaffirmed the fundamental right to access adequate and nutritious food, ambiguity about the right's precise meaning persisted.

4.4 THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, (AS ALTERED)

On the local level, the right to food and food security is enshrined as a primary goal of state policy in Nigeria's 1999 Constitution (as amended in 2023). Section 16(a) mandates the government to ensure food availability, affordability, and accessibility. However, the non-justiciable nature of Chapter 2 of the Constitution under Section 6(6)(c) limits the enforceability of this right. By contrast, countries like Kenya, South Africa, and India have incorporated enforceable provisions on the right to food in their constitutions. Although the right to food in Nigeria is not explicitly justiciable, it can be linked to the constitutional right to life under Section 33. The right to life includes freedom from hunger and starvation, as interpreted in cases such as *Gbemre V Shell Petroleum Development Company Of Nigeria Ltd.*⁴⁸ Furthermore, international legal instruments ratified by Nigeria, such as the UDHR and ICESCR, can be enforced domestically under Section 12 of the Constitution. These frameworks impose obligations on the government, individuals, organizations, and corporations to address food insecurity and mitigate environmental pollution. Nigeria has also made various attempts to increase food production through programs such as the Nationally Coordinated Food Production Programme, Operation Feed the Nation, and the Agricultural Development Projects, among others.⁴⁹ Despite these efforts, food security in Nigeria has remained a pressing challenge, exacerbated by oil pollution. Some recent policies governing Nigeria's agricultural sector are the Agricultural Transformation Agenda (ATA) and the Agriculture

⁴⁸ *Jonah Gbemre v Shell Petroleum Development Company of Nigeria and 2 Others*, Unreported Suit No. FHC/B/CS/53/05, delivered on 14 November 2005

⁴⁹ Nationally Coordinated Food Production Programme (NAFPP, 1972, Gowon); Operation Feed the Nation (PFN, 1976, Obasanjo); Green Revolution Programme (GRP, 1980, Shagari); Directorate of Food, Roads and Rural Infrastructure (DIFRRI, 1986, Babangida); National Agricultural Land Authority (NALDA, 1990, Babangida); National Programme on Food Security (NPFS, 2000, Obasanjo); National Food Security Programme (NFSP, 2003 Yar'Adua); Agricultural Transformation Agenda (ATA, 2011, Jonathan), and the current Agricultural Promotion Policy (APP, otherwise known as Green Alternative). See Gbolagade Babalola, *Essays on Agricultural Economy: Nonexperimental Writings on Agricultural Policy and Development Administration in Nigeria* (Xlibris AU, 2018) at 31

Promotion Policy (2016-2020). However, the Agriculture Promotion Policy notably lacks a human rights framework. Despite mentioning "food as a human right" as a guiding principle, the policy's measures do not reflect this framework.⁵⁰ Although the policy focuses on the social responsibility of government regarding food security, social security, and equity, the lack of corresponding government actions has limited its effectiveness.⁵¹ It is therefore suggested Nigeria should formally recognize the right to food as a justiciable human right in its Constitution to ensure that laws and policies inconsistent with the right to food are rendered ineffective.

5.0 INCIDENCE OF OIL SPILLAGE AND ITS IMPACT ON FOOD SECURITY

The incidence and impact of oil spills vary across ecological zones, with a higher frequency of spillages occurring on land compared to swamp and offshore operations. Oil spills constitute a significant form of environmental pollution, resulting in soil degradation, severe health challenges, the destruction of mangrove forests, and the extermination of aquatic life,⁵² all of which contribute to food insecurity. The impact of oil spills in the Niger Delta region is particularly concerning, given that Nigerian crude oil is highly toxic.⁵³ Furthermore, chemical dispersants commonly used in spill clean-up operations exacerbate environmental damage by increasing the solubility of oil, rendering spills less visible but failing to eliminate their toxicity.⁵⁴ The long-term consequences of oil spills are profound, as the destruction of vegetation and agricultural land persists due to the obstruction of oxygen supply and the depletion of essential soil nutrients such as magnesium and nitrogen.⁵⁵

When oil spill occurs on water, the hydrocarbons spread rapidly. The gaseous and liquid components evaporate, while some dissolve in the water, oxidize, or undergo bacterial degradation before sinking to the seabed due to gravitational action. This contamination has severe consequences for terrestrial ecosystems. The evaporation of volatile, low-molecular-weight components adversely affects aerial life, while the dissolution of less volatile components, which

⁵⁰ Similoluwa Ayoola, *Impacts of the Climate and Health Crises on Food Security: Towards Ensuring a Rights-Based Approach to Food Security in Nigeria* (A thesis submitted to McGill University, Montreal, in partial fulfilment of the requirements of the degree of Master of Laws, April 2021). 73

⁵¹ See Food and Agriculture Organisation, "The Right to Food, Legal Processes", online: <www.fao.org/right-to-food/areas-of-work/legal-processes/en/> Accessed 12/12/24.

⁵² *Ibid*

⁵³ L Ayonote, *Blood spillage*. *TELL*, December 25, 2005, 52, 20-22.

⁵⁴ *Ibid*

⁵⁵ *Ibid*.

leads to emulsified water, disrupts aquatic ecosystems.⁵⁶ Oil spills have devastating effects on vegetation, mangrove forests, food and cash crops, and marine life, thereby reducing the soil's nutrient value and aggravating food insecurity.⁵⁷ Studies conducted in the Niger Delta indicate that even minor oil leaks can destroy an entire year's food supply, severely impacting farmers and their families who rely on agriculture for their livelihood.⁵⁸

Birds and mammals are particularly vulnerable to oil spills when their habitats become contaminated, leading to reduced reproductive rates, lower survival rates, and physiological impairments.⁵⁹ In aquatic environments, an oil film floating on the water's surface obstructs natural aeration, causing the death of freshwater and marine organisms.⁶⁰ On land, oil spills impede vegetation growth and render soil infertile for extended periods, further intensifying food insecurity.⁶¹ The contamination of marine habitats has significant implications for human health, as the consumption of polluted seafood increases the risk of disease.⁶² Most farmlands in the Niger Delta region have been affected by oil spill, thereby reducing their fertility. Fertilizer is applied to these farmlands to boost their fertility and where there is a wash-off, nitrates from the fertilizer flow into the water bodies. Research evidence suggests that nitrate contamination is linked to increased risks of cancer, birth defects, thyroid enlargement, and other health disorders, particularly in children.⁶³

6.0 THE LEGAL FRAMEWORK GOVERNING OIL POLLUTION IN NIGERIA

As an oil producing country, Nigeria is a signatory to some international conventions prohibiting oil pollution, while also enacting laws geared towards the same purpose. This section shall examine these laws and international treaties.

⁵⁶ EA Akpofure, ML Efere and P Ayawei, The Adverse Effects of Crude Oil Spills in the Niger Delta. Urhobo Historical Society In PC Nwilo & TB Olusegun (*n. 19*) *Ibid*.

⁵⁷ CO Opukri and IS Ibaba, Oil Induced Environmental Degradation and Internal Population Displacement in the Nigeria's Niger Delta *Journal of Sustainable Development in Africa*, (2008) 10(1) 184

⁵⁸ Damilola S. Olawuyi, Legal and Sustainable Development Impacts of Major Oil Spills *Consilience: The Journal of Sustainable Development* (2012) 9(1) 4

⁵⁹ *Ibid*.

⁶⁰ MK Ukoli, Environmental Factors in the Management of the Oil and Gas Industry in Nigeria. (2005). www.cenbank.org In A. A. Kadafa, Environmental Impacts of Oil Exploration and Exploitation in the Niger Delta of Nigeria, (2012) 12 (13) *Global Journal of Science Frontier Research Environment & Earth Sciences*, 21.

⁶¹ *Ibid*.

⁶² Y Twumasi, and E Merem , GIS and Remote Sensing Applications in the Assessment of Change within a Coastal Environment in the Niger Delta Region of Nigeria. *International Journal of Environmental Research & Public Health*, (2006) 3(1) 98-106 In Kadafa, *ibid*.

⁶³ *Ibid*

6.1 PETROLEUM ACT CAP P10 LFN 2004

Although the Petroleum Act was enacted primarily to vest ownership of petroleum resources in the state, it also contains general provisions addressing pollution arising from petroleum exploration and development. The Act grants the Minister of Petroleum Resources the authority to halt or suspend any oil operations that, in the Minister's opinion, are not being conducted in accordance with good oil field practices.⁶⁴ Additionally, the Minister is empowered to promulgate regulations concerning pollution prevention and safety measures in oil exploration and production activities.⁶⁵

One of the most significant regulations made under the Petroleum Act concerning environmental protection is the Petroleum (Drilling and Production) Regulations 1969, which has been amended in 1973, 1979, 1995, and 1996. These regulations impose a duty on licensees and lessees to maintain all their equipment, boreholes, and wells in good repair and condition. Furthermore, they are required to conduct their operations in a proper and workmanlike manner, adhering to both the regulatory requirements and best practices approved by the Director of Petroleum Resources as constituting good oil field practice.⁶⁶

The Regulations further mandate that lessees and licensees take all practical steps to:

- a) Control the flow and prevent the escape or avoidable waste of petroleum discovered or extracted from the relevant area.
- b) Prevent damage to adjoining petroleum-bearing strata.
- c) Prevent, except in cases of secondary recovery authorized by the Director of Petroleum Resources, the infiltration of water through boreholes and wells into petroleum-bearing strata.
- d) Prevent the discharge of petroleum into any water body, including wells, springs, streams, rivers, lakes, reservoirs, estuaries, or harbours.
- e) Minimize damage to the surface of the relevant area, as well as to trees, crops, buildings, structures, and other properties within the affected zone.⁶⁷

To ensure compliance with these environmental safeguards, the Minister is vested with the power to revoke oil prospecting licences or oil mining leases where the holder fails to adhere to the

⁶⁴ S 8(1)(d) and (g) of the Petroleum Act, Cap P10 LFN 2004

⁶⁵ *Ibid*, S 9

⁶⁶ Regulation 36

⁶⁷ *Ibid*

provisions of the Petroleum Act and its accompanying regulations.⁶⁸ Pollution of inland water bodies such as rivers, streams, and lakes has severe consequences, particularly for fishing activities, which may be significantly diminished or entirely eradicated. The legal right to engage in fishing has long been recognized and is protected against interference, including pollution. In furtherance of this principle, paragraph 23 of the Regulations provides that:

“If the licensee or lessee exercises the rights conferred by his licence or lease in such a manner as unreasonably to interfere with the exercise of any fishing rights, he shall pay adequate compensation therefore to any person injured by the exercise of those first mentioned rights.”

The right to fish in tidal waters has been reaffirmed in judicial decisions, including the case of *Elf Nigeria Limited v. Opera Sillo*,⁶⁹ where the court awarded compensation to the Sillo family for the loss of their fishing rights. The pollution, caused by an oil spill, resulted in the deposition of silt into the tidal rivers where the family traditionally carried out their fishing activities. This decision emphasizes the legal recognition of fishing rights and the duty of oil operators to prevent environmental damage that disrupts local livelihoods.

The Petroleum (Drilling and Production) Regulations provide for various environmental protections, including safeguards for lands held to be sacred,⁷⁰ measures to prevent pollution of watercourses,⁷¹ and regulations on the abandonment and decommissioning of wells.⁷² Additionally, the regulations mandate that licensees and lessees maintain accurate records of the quantity of crude oil extracted, stored, and transported.⁷³ These provisions are intended to enhance accountability and minimize the environmental impact of petroleum operations.

Despite these regulatory safeguards, a major weakness of the Petroleum Regulations lies in their lack of effective enforcement mechanisms. In practice, compliance with the regulations is often disregarded, with violations going largely unpunished. While the regulations are periodically amended to reflect economic changes—such as adjustments in fees, rents, and royalties—there are no well-defined penalties for environmental infractions resulting from breaches of the regulations.

⁶⁸ Regulation 25 of Schedule one to the Petroleum Act, 2004

⁶⁹ (1994) 6 NWLR (Part 350) 258. See also *S.P.D.C. V Adamkue* (2003) 11 N.W.L.R. (Part 832) 533

⁷⁰ Regulation 17 of Petroleum (Drilling and Production) Regulations 1969

⁷¹ *Ibid.* Regulation 25

⁷² *Ibid.* Regulation 36

⁷³ *Ibid.* Regulation 53

Another significant limitation of the regulations is the confidentiality requirement imposed on licensees and lessees regarding the information they provide.⁷⁴ This confidentiality clause hinders transparency and public access to critical environmental data, making it difficult to hold oil companies accountable for pollution and regulatory breaches. Strengthening enforcement mechanisms and ensuring greater transparency in the implementation of these regulations would enhance their effectiveness in protecting the environment and the rights of affected communities. Weak enforcement and lack of transparency in the Petroleum Act and its regulations significantly impact food security in Nigeria. Oil pollution contaminates rivers, farmlands, and fishing areas, which are vital sources of food and income, especially in the Niger Delta. Declining fish populations and degraded farmland reduce food availability and increase poverty. The confidentiality of environmental data limits public accountability and delays necessary action. These regulatory gaps threaten rural livelihoods and nutrition. Enhancing enforcement, cleaning up polluted sites, and improving access to environmental data are essential to protect food sources and ensure community well-being.

6.2 OIL PIPELINES ACT CAP O7 LFN 2004

The Oil Pipelines Act regulates the laying of oil pipelines in Nigeria. Section 4(2) of the Act stipulates that an oil company must obtain a permit from the Department of Petroleum Resources (DPR) before carrying out any survey of a proposed pipeline route or engaging in the actual construction of oil pipelines. This requirement establishes that an oil company can only proceed with pipeline installation after securing the necessary governmental authorization.

A significant limitation of the Act is that oil-producing communities, whose farmlands and livelihoods are directly impacted by oil pipeline projects, have no legal authority to either grant permission for or object to the laying of oil pipelines on their land. Their participation is restricted to raising claims and objections concerning specific categories of land, including:

- (2) Land occupied by a cemetery.
- (3) Land containing a grave, tree, or object deemed sacred or venerated; and
- (4) Land under actual cultivation.

⁷⁴ Ibid Regulation 58

Furthermore, the Act imposes a duty on holders of oil pipeline licenses to pay compensation to any person whose land or interest in land—whether the land falls within the specific area covered by the license—is adversely affected by the exercise of the rights conferred by the license. Compensation is to be provided for any injuries sustained because of pipeline operations that have not been adequately remedied.⁷⁵ While the Act provides a mechanism for compensation, its failure to recognize the full extent of community participation in the decision-making process remains a significant shortcoming. Strengthening the legal framework to ensure that host communities have a more substantive role in approving or objecting to pipeline projects would enhance environmental justice and protect the rights of affected individuals. Another weakness in this Act is that it attaches more importance to payment of monetary compensation than environmental protection and pollution prevention.

The gaps in the Oil Pipelines Act directly affect food security in Nigeria by side-lining the rights of host communities whose farmlands are used for pipeline projects. Since the law does not require community consent before pipelines are laid, oil companies can construct pipelines through cultivated lands without adequately assessing the long-term impact on food production. This often leads to soil degradation, crop destruction, and repeated oil spills that contaminate fertile farmland and water sources essential for irrigation and fishing.

Moreover, the Act prioritizes monetary compensation over environmental protection, offering payment after damage has occurred rather than preventing pollution. Compensation rarely reflects the true value of lost food sources or long-term soil and water contamination. As a result, farming and fishing communities, especially in oil-producing areas like the Niger Delta, face reduced agricultural productivity and limited access to safe food and water—key drivers of local food insecurity.

6.3 OIL IN NAVIGABLE WATER ACT CAP O6 LFN 2004

The Act was enacted in compliance with Nigeria's adoption of the International Convention for the Prevention and Control of Pollution of the Sea by Oil. It represents the first legislation in Nigeria that specifically and exclusively addresses industrial waste generated by oil production.⁷⁶

⁷⁵ Section 11(5) (a) of the Oil Pipelines Act.

⁷⁶ CC Nwufu, Legal Framework for the Regulation of Waste in Nigeria, *African Research Review*, (April 2010) 10(2) 499

Under the Act, the discharge of oil into a prohibited sea area constitutes an offence and the owner or master of any ship responsible for such discharge is deemed guilty of an offence.⁷⁷ Similarly, where oil or any mixture containing oil is discharged into the sea within Nigeria's territorial waters, whether from a vessel, land-based facility, or apparatus, the owner or person in charge is also guilty of an offence.⁷⁸

A notable weakness of the Act, however, is that the penalties prescribed for offences under its provisions are grossly inadequate.⁷⁹ The absence of stringent punitive measures undermines the deterrent effect of the law, allowing offenders to escape with minimal consequences. Strengthening the penalties under the Act would enhance its effectiveness in regulating oil pollution and ensuring greater compliance with environmental protection standards.

The weak penalties in the Oil in Navigable Waters Act reduce its deterrent effect, allowing continued oil discharges into Nigeria's territorial waters. This directly harms food security by polluting coastal and inland water bodies where fishing is a major source of protein and livelihood. Contaminated waters lead to fish kills, reduced fish populations, and bioaccumulation of toxins in seafood, making them unsafe for consumption. Communities that rely on artisanal fishing for food and income—especially in the Niger Delta—suffer from declining catch volumes and food contamination. Without stricter enforcement, these vital food sources remain at risk.

6.4 NATIONAL OIL SPILLS DETECTION AND RESPONSE AGENCY (NOSDRA) ACT 2006

The National Oil Spill Detection and Response Agency (NOSDRA) was created under Act No. 15 of 2006 as the Federal Government's strategic measure to combat ongoing environmental degradation, particularly in Nigeria's oil-producing coastal areas like the Niger Delta. NOSDRA's core mandate includes overseeing oil spill response efforts and ensuring the effective implementation of the National Oil Spill Contingency Plan (NOSCP), developed in line with the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC) 1990, which Nigeria is a signatory to.⁸⁰ The NOSCP, initially formulated in 1981 and revised in 1997,

⁷⁷ Section 1 Oil in Navigable Waters Act, CAP O6 LFN 2004

⁷⁸ Ibid Section 3

⁷⁹ Ibid Section 6

⁸⁰ Nigeria's report on Rio +20 (2012).

2000, and 2006, outlines procedures for oil spill containment, clean-up, and site restoration, incorporating both evolving local challenges and global best practices.

NOSDRA is mandated to take the lead role in ensuring timely, effective, and appropriate responses to all oil spills, protecting threatened environments, and ensuring the clean-up of affected sites to the best practical extent.⁸¹ The Act further provides for the establishment of a National Control and Response Centre, responsible for coordinating oil spill incidents, enforcing environmental legislation, monitoring oil spill detection and responses, and receiving reports from zonal offices and control units.

Despite this mandate, NOSDRA faces significant operational challenges. In many cases, oil spill investigations are led by oil companies rather than the agency. NOSDRA does not initiate independent oil spill investigations and is often dependent on the polluting oil company for logistics, including transportation to spill sites and technical data.⁸² Furthermore, joint investigation processes are heavily influenced by the oil companies, which determine the timing of site visits, provide transportation, and control technical assessments.⁸³ This imbalance in power creates a conflict of interest, as the polluter has significant influence over the investigative process and information flow.

A poorly equipped regulatory agency like NOSDRA has little choice but to operate within these constraints. As Ayobami has argued, monitoring agencies such as NOSDRA require adequate funding and technical expertise to effectively manage oil spill incidents.⁸⁴ If properly equipped and funded, NOSDRA can function more effectively as a regulatory agency, ensuring strict compliance with environmental laws and holding polluters accountable. Strengthening NOSDRA's operational capacity would significantly enhance Nigeria's environmental governance framework in the oil sector.

The gaps in the NOSDRA Act negatively impact food security in Nigeria by allowing oil companies to dominate spill investigations and delay clean-up efforts. This leads to prolonged contamination of farmlands, rivers, and fishing grounds, which are primary food sources for rural

⁸¹ Section 5 of the NOSDRA Act 2006

⁸² A Olaniyan, 'The Multi-Agency Response Approach To The Management Of Oil Spill Incidents: Legal Framework For Effective Implementation In Nigeria', *Afe Babalola University Journal of Sustainable Development, Law*, (2015) 6(1) 114.

⁸³ Ibid

⁸⁴ A Olaniyan, 'Imposing Liability for Oil Spill Clean-Ups in Nigeria: An Examination of the Role of the Polluter-Pays Principle', *Journal of Law, Policy and Globalization* (2015) 40, 84

communities in the Niger Delta. With NOSDRA lacking independence, funding, and technical capacity, polluted sites remain unrestored, reducing crop yields, killing fish, and introducing toxins into the food chain. These outcomes directly diminish local food availability, compromise nutrition, and threaten livelihoods dependent on farming and fishing.

6.5 NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY (NESREA) ACT CAP N164 2010

The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act is Nigeria's primary environmental law, establishing NESREA as the agency responsible for enforcing environmental laws, regulations, and standards. NESREA's mandate includes deterring individuals, industries, and organizations from polluting and degrading the environment, promoting biodiversity conservation, and ensuring the sustainable development of Nigeria's natural resources.⁸⁵ Additionally, the agency is tasked with coordinating and liaising with relevant stakeholders, both within and outside Nigeria, on matters related to the enforcement of environmental policies and guidelines.

NESREA has broad powers to enforce compliance with all environmental laws, guidelines, policies, standards, and regulations in Nigeria. It is also responsible for ensuring adherence to international environmental agreements, protocols, conventions, and treaties to which Nigeria is a signatory.⁸⁶ One of its key regulatory functions is the prohibition of the discharge of hazardous substances in harmful quantities into the air, land, or waters of Nigeria, including the adjoining shoreline, unless such discharge is authorized by law.⁸⁷ The Act prescribes penalties for violations. Individual offenders may be fined up to N1,000,000 or imprisoned for up to five years.⁸⁸ Corporate entities are liable to a fine of up to N1,000,000, with an additional penalty of N50,000 for each day the offence continues.⁸⁹ Any person in charge of a corporate body at the time of the offence is also deemed guilty and may face prosecution unless they can prove lack of knowledge or that they exercised due diligence to prevent the violation.⁹⁰ Additionally, obstructing a NESREA officer in the performance of official duties carries penalties, including a fine of N200,000 or imprisonment

⁸⁵ Section 2 NESREA Act

⁸⁶ *Ibid.* section 7(c)

⁸⁷ *Ibid.*, s. 27 (1)

⁸⁸ *Ibid.*, s. 27 (2)

⁸⁹ *Ibid.*, s. 27 (3)

⁹⁰ *Ibid.*, s. 27 (4)

for up to one year, with an additional fine of N20,000 per day if the offence persists. Corporate offenders face a fine of N2,000,000, plus N200,000 for each day the violation continues.⁹¹

Despite its broad mandate, the NESREA Act has limited application in the petroleum sector. Unlike its predecessor, the Act largely excludes oil and gas operations from its regulatory scope.⁹² While NESREA retains the authority to enforce compliance with environmental standards, regulations on water quality, pollution abatement, and environmental health,⁹³ its functions carefully sidestep direct regulation of the oil and gas industry—despite the fact that this sector is a major contributor to environmental pollution in Nigeria.⁹⁴ This regulatory gap raises concerns about the Act's effectiveness in addressing environmental degradation caused by petroleum exploration and production activities. The NESREA Act excludes the NESREA from enforcing compliance within the oil and gas industry. The NESREA also do not have jurisdiction to regulate oil and gas activities resulting in noise, air, seas and other water bodies' pollution. They also lack capacity to control measures such as registration, licensing, and permitting systems in the oil and gas industry or conduct environmental audits in the oil and gas industry.

The exclusion of the National Environmental Standards and Regulations Enforcement Agency (NESREA)—an agency responsible for sustainable development, biodiversity conservation, environmental protection, and the advancement of environmental technology—from enforcing compliance in the oil and gas sector has been widely criticized. This regulatory gap has been described as a “deeply questionable move that further entrenches government failures to ensure effective oversight of the oil industry and to protect the environment and human rights.”⁹⁵ This cap placed on NESREA's authority over the petroleum sector by the government has effectively weakened its ability to hold oil companies accountable for environmental degradation.

The exclusion of NESREA from regulating the oil and gas sector weakens oversight of oil-related pollution, allowing unchecked contamination of farmlands, rivers, and fishing grounds—key sources of food and income in rural Nigeria. Without NESREA's enforcement, spills and toxic discharges persist, leading to reduced crop yields, fish kills, and long-term soil and water

⁹¹ Ibid, s. 31.

⁹² A Tanko, *An Analysis of the Efficacy of Fiscal Laws relating to Petroleum Operations in Nigeria*, (Unpublished thesis: Ahmadu Bello University, Zaria, Nigeria, 2011) 120

⁹³ Section 7(a), (b), (c), (d), (e), (f),(i) and (m) of the NESREA Act

⁹⁴ A. Tanko (n.92) ibid

⁹⁵ Amnesty International Report, June 2009, p. 43

degradation. This directly undermines food production, reduces local food availability, and heightens hunger and malnutrition, especially in the Niger Delta.

7.0 INSTITUTIONAL FRAMEWORK FOR PROTECTION AGAINST OIL SPILLS

Apart from the laws that directly or indirectly provide for penalties against oil pollution, there are certain institutions that work to ensure the implementation of those laws. Some of the institutions will be examined to see how well they have carried out their functions.

7.1 THE FEDERAL MINISTRY OF ENVIRONMENT

The Federal Ministry of Environment (FME) was created in 1999 to replace FEPA.⁹⁶ The Ministry was established to ensure effective coordination of all environmental matters, which hitherto were fragmented and resident in different Ministries.⁹⁷ Its creation was intended to ensure that environmental matters are adequately mainstreamed into all developmental activities.⁹⁸ The Ministry is responsible for establishing a National Policy aimed at safeguarding the environment and preserving natural resources. This includes conducting environmental impact assessments for all development projects, as well as formulating periodic master plans to advance environmental science and technology.⁹⁹

The Vision of the Ministry is to ensure that Nigeria develops in harmony with the environment, while the Mission is to ensure environmental protection and natural resources conservation for sustainable development”.¹⁰⁰ The main function of the Ministry revolves around the following key environmental issues, especially, in the area of policy awareness, enforcement and intervention: Desertification and Deforestation; Pollution and Waste Management; Climate change and clean Energy; Flood, Erosion and Coastal Management (Shoreline Protection); and Environmental Standards & Regulations.¹⁰¹ The Ministry also has the following parastatals: Environmental Health and Registration Council of Nigeria (EHORECON); Forestry Research Institute of Nigeria (FRIN); National Bio-safety Management Agency (NBMA); National Environmental Standards

⁹⁶Federal Ministry of Environment. Federal Ministry of Information. Retrieved on August 20, 2013, from <http://www.nigeria.gov.ng/2012-10-29-11-06-51/executive-branch/94-federal-ministry-of-environment/182-federal-ministry-of-environment>.

⁹⁷ Ibid

⁹⁸ Ibid

⁹⁹ Ibid

¹⁰⁰ Federal Ministry of Environment. <https://euepin.unilag.edu.ng/?page_id=913>. Accessed 13/6/2021

¹⁰¹ Ibid

Regulatory and Enforcement Agency (NESREA); National Agency for the Great Green Wall; National Oil Spill Detection and Response Agency (NOSDRA); National Parks Service (NPS).¹⁰² It also cooperates with other relevant stakeholders.

Corruption and bad governance prevalent in the country affect the ministry in enforcement of environmental laws. Some owners and operators of the facilities fight back ministry officials using blackmail and/or intimidation.¹⁰³ Another major challenge of enforcement of laws against oil pollution is lack of modern technology. Till date, officers monitoring the environment do not have the effective modern equipment to enhance monitoring of some of the pollution incidents.¹⁰⁴

FME's weak enforcement of environmental laws and inability to monitor pollution due to corruption and inadequate technology allows environmental degradation to persist unchecked. This includes land degradation, desertification, deforestation, and pollution of water bodies. These environmental issues directly reduce the quantity and quality of arable land and freshwater available for farming, leading to lower agricultural productivity and threatening food security, especially in rural and agrarian communities.

7.2 NATIONAL OIL SPILLS DETECTION AND RESPONSE AGENCY (NOSDRA)¹⁰⁵

The National Oil Spill Detection and Response Agency (NOSDRA) was created under Act No. 15 of 2006 as a strategic initiative by the Federal Government to address the ongoing environmental damage and destruction of coastal ecosystems, particularly in the oil-rich Niger Delta region. NOSDRA is legally mandated to oversee oil spill response efforts and enforce the National Oil Spill Contingency Plan (NOSCP) in compliance with Nigeria's commitment to the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) of 1990.¹⁰⁶ The National Oil Spill Contingency Plan (NOSCP) serves as a strategic framework for managing oil spills by outlining measures for containment, recovery, and environmental remediation. Initially developed in 1981, the plan underwent revisions in 1997, followed by subsequent updates in 2000 and 2006 to enhance its effectiveness.

¹⁰² Ibid

¹⁰³ MT Ladan, *Law of Environmental Protection*. (Caltop Publications Nigeria Limited, 1998).

¹⁰⁴ H Ijaiya, & OT Joseph, 'Rethinking Environmental Law Enforcement in Nigeria'. (2014) *Beijing Law Review*, 315. <<http://dx.doi.org/10.4236/blr.2014.54029>>. Accessed 22/05/2018

¹⁰⁵ National Oil Spills Detection and Response Agency (NOSDRA) Act, CAP N157 LFN 2010

¹⁰⁶ Nigeria's report on Rio +20 (2012).

As its core mandate, NOSDRA is tasked with spearheading prompt, efficient, and well-coordinated responses to oil spill incidents. The agency works to safeguard vulnerable ecosystems while ensuring comprehensive remediation of affected areas to the fullest extent possible.¹⁰⁷ However, in many cases, it is observed that oil companies' personnel usually lead oil spill investigations and NOSDRA does not initiate oil spill investigations.¹⁰⁸ The agency is thus seen to be dependent on the company involved in an oil spill incident, whether it involves conveying NOSDRA staff to oil spill sites or supplying technical data about spills. Furthermore, the process of joint investigation is heavily reliant on the oil companies. The oil companies often decide when the investigation will take place, they usually provide transport to the site and they provide technical expertise, which the regulatory agencies such as NOSDRA and the DPR do not have.¹⁰⁹

NOSDRA's dependence on oil companies for logistics and data, and its weak role in initiating independent oil spill investigations, leads to delayed or poor oil spill responses. This results in prolonged contamination of farmlands, rivers, and fishing grounds, especially in the Niger Delta. The destruction of soil fertility and aquatic life reduces both crop and fish production, which undermines local livelihoods and food availability in one of Nigeria's key agricultural and fishing regions.

7.3 NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY (NESREA)¹¹⁰

The National Environmental Standard and Regulations Enforcement Agency (NESREA) Act is the major environmental law in Nigeria. The agency is charged with the responsibility of enforcing environmental laws, regulations and standards in deterring people, industries and organizations from polluting and degrading the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of

¹⁰⁷ Section 5 of the NOSDRA Act 2006

¹⁰⁸ A Olaniyan, 'The Multi-Agency Response Approach To The Management Of Oil Spill Incidents: Legal Framework For Effective Implementation In Nigeria', *Afe Babalola University Journal of Sustainable Development, Law*, (2015) 6(1) 114.

¹⁰⁹ *Ibid*

¹¹⁰ National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2018 (as amended)

enforcement of policies and guidelines.¹¹¹ NESREA also has responsibility to enforce all environmental laws, guidelines, policies, standards and regulations in Nigeria, as well as enforce compliance with the provisions of all international agreements, protocols, conventions and treaties on the environment to which Nigeria is a signatory.¹¹²

With respect to NESREA, a major challenge is that the agency is excluded from the activities of the Nigerian oil and gas industry. Section 7 and 8 of the NESREA Act provides for the powers and functions of the agency. However, these sections also provide exceptions in five of its thirteen provisions, requiring the Agency to:

1. Enforce compliance with regulations on the importation, exportation, production, distribution, storage, sale, use, handling and disposal of hazardous chemicals and waste *other than in the oil and gas sector*;¹¹³
2. Enforce through compliance monitoring, the environmental regulations and standards on noise, air, land, seas, oceans and other water bodies *other than in the oil and gas sector*;¹¹⁴
3. Create public awareness and provide environmental education on sustainable environmental management, promote private sector compliance with environmental regulations *other than in the oil and gas sector* and publish general scientific or other data resulting from the performance of its functions.¹¹⁵
4. Conduct public investigations on pollution and the degradation of natural resources, *except investigations on oil spillage*,¹¹⁶
5. Submit for the approval of the Minister, proposals for the evolution and review of existing guidelines, regulations and standards on environment *other than in the oil and gas sector* including atmospheric protection, air quality, ozone depleting substances, noise control, effluent limitations, water quality, waste management and environmental sanitation, erosion and flood control, coastal zone management, dams and reservoirs, watershed, deforestation and bush burning, other forms of pollution and sanitation, and control of hazardous substances and removal control methods;¹¹⁷

¹¹¹ Section 2 NESREA Act 2018 (as amended)

¹¹² Ibid section 7(c)

¹¹³ Section 7(g) NESREA Act 2018 (As amended)

¹¹⁴ Ibid Section 7(h)

¹¹⁵ Ibid Section 7(l)

¹¹⁶ Ibid Section 8(g)

¹¹⁷ Ibid Section 8(k)

6. Develop environmental monitoring networks, compile and synthesize environmental data from all sectors *other than in the oil and gas sector* at national and international levels.¹¹⁸

The implication of the above provisions is that the agency is barred from enforcing hazardous waste regulations in the oil and gas sector. The Agency cannot monitor, license, research, survey, study, or audit the sector. It may not propose evolution of the environmental regulations for, promote compliance in, or conduct investigations of the oil and gas sector. Thus, while the Agency is technically allowed to ‘enforce compliance with laws, guidelines, policies and standards on environmental matters’ it may not observe the oil and gas sector in any way to determine the level of compliance by stakeholders.¹¹⁹ The effects of these exemption provisions are that the supposed environmental regulator in Nigeria has no legal basis or power to investigate and punish environmental default in Nigeria’s oil and gas sector.¹²⁰ This has been a major barrier to victims of oil pollution in the Niger-Delta who are faced with the brazen reality that NESREA may not provide any haven after all. They are therefore left with one major option: to go to court and seek redress. Another major problem of the Agency is that many of the staff employed by the agency to carry out technical roles are not trained.¹²¹ The above listed defects prevent NESREA from carrying out her duties effectively.

NESREA’s legal exclusion from monitoring and regulating the oil and gas sector prevents it from controlling pollution from one of Nigeria’s largest and most environmentally harmful industries. Hazardous waste, oil spills, and gas flaring continue without proper oversight, contaminating land and water resources essential for agriculture and fisheries. Furthermore, the lack of technically trained personnel impairs NESREA’s performance even in sectors it is empowered to regulate, leading to unchecked pollution that disrupts ecosystems and food chains.

7.4 DEPARTMENT OF PETROLEUM RESOURCES (DPR)

The Department of Petroleum Resources (DPR) is an arm of the Ministry of Petroleum. The department supervises all petroleum industry operations carried out under licenses and leases in

¹¹⁸ Ibid Section 8(1)

¹¹⁹ RA Mmadu, ‘Judicial Attitude to Environmental Litigation and Access to Environmental Justice in Nigeria: Lessons from *Kiobel’ Afe Babalola University: Journal Of Sustainable Development Law And Policy*, (2013) 2(1) 152

¹²⁰ Ibid

¹²¹ NF Stewart, ‘A Roadmap for the Effective Enforcement Of Environmental Laws In Nigeria’ (2011) 2 *National Environmental Law Review*, (2011) 2, 48.

Nigeria to ensure compliance with the applicable laws and regulations in line with best oil producing practice and standards.¹²² THE DPR produces the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN). Revised in 2002 from the original 1991 version, EGASPIN is designed to minimise oil pollution.¹²³ It also sets out the approach to be adopted regarding contamination of the soil and groundwater, with the person responsible for the contamination required to restore the soil and groundwater to appropriate safety levels under threat of fines, potential imprisonment and loss of a license.¹²⁴

The challenges besetting the DPR include lack of expertise and manpower to carry out its functions. Equally, there is a conflict in the responsibilities of the DPR and the National Oil Spill Detection and Response Agency (NOSDRA). NOSDRA appears to be responsible for monitoring all oil pollution and the process of detecting it and ensuring that it is cleared up. Both agencies appear to claim this role.¹²⁵ As a regulator with licensing powers, the DPR has an obvious function here, while NOSDRA obviously cannot respond to emergencies if it could monitor them.

DPR's limited expertise and manpower, combined with overlapping responsibilities with NOSDRA, create enforcement gaps in controlling pollution from oil operations. The ineffective implementation of EGASPIN means that soil and water contamination is not properly addressed. Polluted farmlands and poisoned water bodies lead to reduced crop yields and fish kills, especially in the Niger Delta, which threatens both food availability and access for millions who depend on these ecosystems for sustenance.

8.0 CONCLUSION AND RECOMMENDATIONS

This paper has explored the link between oil pollution and food security in Nigeria, highlighting the failure of existing legal and institutional frameworks. Although laws like the Petroleum Act, NOSDRA Act, and Oil Pipelines Act provide for environmental protection, enforcement is weak due to vague penalties, poor oversight, and overlapping mandates. Critically, NESREA is excluded from regulating the oil and gas sector, while NOSDRA lacks independence and resources, making

¹²² Organization Roles. About DPR. http://www.dprnigeria.com/dpr_roles.html. Accessed 20/6/21

¹²³ Chris Cragg, Joseph Croft and Inemo Samiama, 'Environmental Regulation and Pollution Control in the global oil industry in relation to reform in Nigeria' being a Report prepared by Stakeholders Democracy in Nigeria (SDN) 2014

¹²⁴ Ibid

¹²⁵ Ibid

it reliant on polluters for investigations. The Federal Ministry of Environment and DPR also struggle with corruption, outdated tools, and internal conflicts. These gaps enable unchecked pollution, leading to infertile soils, poisoned water bodies, and collapsing food systems, especially in the Niger Delta. Without urgent legal and institutional reforms, oil pollution will continue to threaten food security and the livelihoods of vulnerable communities. It is hereby recommended as follows:

- i. There is need to amend the Petroleum Act, NOSDRA Act, and Oil Pipelines Act to provide stricter penalties for environmental violations and remove confidentiality clauses that shield polluters from public scrutiny. The International Covenant on Economic, Social and Cultural Rights (ICESCR) should also be domesticated to make the right to food legally enforceable in Nigeria.
- ii. There is need to grant full regulatory powers to NESREA over the oil and gas sector to enable independent monitoring, licensing, and enforcement, while ensuring that NOSDRA is adequately funded and operationally independent, with the capacity to conduct autonomous oil spill investigations.
- iii. It is important to legally recognize and enforce the participation rights of host communities in pipeline approvals and environmental assessments. The government at all levels should also support and legalize the formation of independent environmental watchdogs and community-led oil spill monitoring initiatives.
- iv. There is need to establish an Environmental Remediation Fund, financed by oil companies, for cleaning polluted lands and water bodies and compensating affected communities. In addition, alternative livelihoods through sustainable agriculture, aquaculture, and climate-resilient farming practices, especially in oil-polluted areas should be promoted.
- v. The law makers should enshrine the right to food as a justiciable human right in the Nigerian Constitution to ensure citizens can seek redress when their access to food is undermined by environmental pollution.