

INTERROGATING THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR IMPLEMENTATION OF INTERNATIONAL ENVIRONMENTAL AGREEMENTS IN NIGERIA

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Abstract

The threat of global environmental harm is real and imminent. The world continues to exert unrelenting efforts in the quest to provide viable and sustainable solution to the ever-depleting global environment resulting in climate change and global warming. Treaties, conventions and protocols have been entered into by the international community in a bid to save and sustain the environment for the present and future generations. There are presently numerous international environmental agreements in existence; but the effectiveness of these international agreements is worrisome and questionable. Using doctrinal approach, this paper interrogates the efficacy of the overwhelming litany of global environmental agreements in existence. It examines the challenges facing the legal and institutional frameworks in Nigeria responsible for the implementation of international environmental agreements. It finally made some recommendations on how the law and relevant authorities can be retooled to attract effective compliance and implementation of international environmental agreements in Nigeria.

Keyword: Institutional, compliance, international, environmental, agreement.

1. Introduction

The global environment being as old as human history is believed not to have received early regulatory attention. But today, there is a global drive through numerous legal and institutional frameworks to adequately address the use of the natural environment.”

¹ Existing side by side with legal frameworks in any nation are the institutions that ensure the effectiveness of the rules. Nigeria is not an exception. All targets sustainability of human environment part. More so, the need for and importance of international agreements among sovereign nations cannot be over-emphasized. Such necessity of agreement among different countries of the world continue to grow as days go by. Today, treaties, conventions, protocols, and numerous International Environmental Agreements (IEAs) have been pioneered and developed yet it appears as if these efforts are not yielding.² Studies show that about seven hundred (700) MEAs are currently in place.³

However, it is not about the existence of these agreements. It is to what extents states comply with its obligation to comply and implement the rules and letters embedded in this international environmental law. This is because the nature of compliance to be accorded to the agreement and extent of implementation will solely be dependent on the domestic realities of individual nation that took part in the negotiation process. To achieve national implementation of, and compliance with, treaty provisions is always a herculean task. For instance, United State of America non-participation in global environmental institutions or failure to ratify IEAs often pose threats to climate

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¹ Farrier and P Stein, (Eds.) The Environmental Law Handbook: Planning and Land Use in NSW 4th Edition, David (Redfern Legal Centre Publishing, 2006) 3

² C Bruch and E Mrema, *Manual on Compliance with and Enforcement of Multilateral Environmental Agreements* (United Nations Environmental Program, 2006) 15

³ B Bowling, ‘Multilateral Environmental Agreements: A Handbook for Afghan Officials’ *United Nations Environment Programme Post-Conflict and Disaster Management Branch* (2008) 8

agreements.⁴ Overall, some of these factors nevertheless determine the relative success and bottlenecks that will arise from the agreements. Research shows that as at today, Nigeria is a state party to a handful numbers of international environmental agreements. To properly xray the relevant questions related to this research, this paper is divided into five parts. Apart from the introduction, this paper looks at the second part highlights some IEAs that Nigeria has ratified. The third part examines the legal and institutional frameworks responsible for the implementation of international obligation, and particularly IEAs. The fourth part looks at the factors constituting the impediments for Compliance and implementations of international environmental agreements in Nigeria. The fifth part offers some viable recommendations capable of inducing effective compliance and implementations of IEAs. Finally, the conclusion follows.

2. Some International Environmental Agreements Nigeria is a State Party

International Environmental Agreements (IEAs) are sometimes used interchangeably with Multilateral Environmental Agreements (MEAs). ‘Conventions’,⁵ whichever nomenclature adopted, International environmental agreements play significant role in every global legal agenda or bases towards achieving safe and sustainable environment for mankind. It is an essential mainstream effort that complements national legislations in any framework that address environmental issues. Thus, the role of multilateral environmental agreements in achieving sustainable development has long been applauded by experts.⁶ In the global Environmental governance, MEAs are products of multilateral processes which guide national, regional and global steps on environmental issues. The MEAs are often regarded as non-binding and unenforceable principles of law in the international legal stage They however command influence. .⁷ Some of the agreements are examined below.

⁴ G Bang, *et al* ‘US presidents and the failure to ratify multilateral environmental agreements’ *Climate Policy* (2012). Available at< <https://www.tandfonline.com/doi/abs/10.1080/14693062.2012.699788>> Accessed on 16 January 2022

⁵ B Pisupati ‘Roles of Multilateral Environmental Agreements(MEAs) in Achieving the Sustainable Developments Goals (SDGs)’ (2016) 7- 8. Available at <<https://wedocs.unep.org/rest/bitstreams/35153/retrieve>> Accessed on 22 January 2022

⁶ *ibid*

⁷ *ibid*

(a) The Paris Agreement on Climate Change

This agreement was adopted by 196 parties (countries) at the Conference of parties (COP) 21 in Paris of which Nigeria is a signatory. Came into force in 2015. Nigeria signed in September 2016 and ratified it in March 2017.⁸ There have been quite a few efforts on the side of Nigerian government. It undertook that by 2030 it would unconditionally reduce its GHG (GREENHOUSE GAS) emissions by 20% and 45% with the support of international bodies. Further, with regards to achieving this, certain steps were put in place, which include updating its Nationally Determined Contributions (NDCs) and integrating climate goals into its Economic Recovery and Growth plan, ending gas flaring by 2030.⁹ Though Nigeria has set up the NDCs as stipulated under the agreement, but challenges remain in balancing economic growth with environmental sustainability. Nigeria needs to step up in its climate action if it means business. There is need to clamp down on rate of deforestation, use of biomass such as wood and production of charcoal from wood – used by exporters and producers etc. Thus, climate change is not given the needed attention and importance. This gave rise to calls for Nigeria to undertake more ambitious efforts to combat climate change and adapt to its effects.¹⁰

(b) Convention on Wetlands of International Importance Especially on Waterfowl Habitat, (Ramsar Convention), 1971

This is signed by Nigeria on February 2, 1971 and ratified in October 2, 2000. The purpose of the Convention is to conserve wetlands and promote their sustainable use. Members to the convention agreed to promote wetlands and waterfowl through the establishment of nature reserves on wetlands.¹¹ Under the Convention, members are under obligations to designate a wetland that would be included in the list of wetlands of

⁸ U Aliogo, 'Paris Climate Change Agreement: How Has Nigeria Fared?' *Thisday Newspaper Report* (2017), < [https:// www.thisdaylive.com/index.php/2017/12/28/paris -climate-change-agreement-how-has-nigeria-fared/](https://www.thisdaylive.com/index.php/2017/12/28/paris-climate-change-agreement-how-has-nigeria-fared/)> accessed on 21 March 2025.

⁹ V Chime, 'EXPLAINER: What is Paris Climate Agreement and is Nigeria on Track to Meet its Targets' *The Cable* of 10th May 2021, <<https://www.thecable.ng/explainer-what-is-paris-climate-agreement-and-is-nigeria-on-track-to-meeting-its-targets/>> accessed on 20 March 2025.

¹⁰ SS Shuaibu, *et al*, 'Examining The Impact of Nigeria's Participation in Paris Agreement Towards Climate Change Policy' *Zamfara Journal of Politics and Development*, (2022) 3(3) 1 – 11

¹¹ See Preamble to RAMSAR Convention at where, please indicate?

international importance (Ramsar List)/ The wetlands shall be selected in accordance of the importance in relation to international biology, ecologic, botanic or hydrology nature.¹² Nigeria has Wetlands internationally recognized by the Convention. They are APOI Creek forest in Bayelsa state, BATURIYA Wetland in Kano, DAGONA Sanctuary Lake in Yobe, Lower Kaduna-Middle Niger Floodplain in Kwara and Niger states, MALADUMBA Lake in Bauchi, Oguta Lake in Imo State, PANDAM AND WASE Lakes in Nasarawa State, UPPER ORASHI Forest in Rivers State.¹³ However, human activities, like sewage and dumping, bush burning, dredging activities, overfishing, overgrazing, poaching etc. have constituted threats to their existence.

(c) International Convention for The Prevention of Pollution from Ships 1975/1978 (MARPOL)

This convention, adopted by the International Maritime Organisation in 1973, is the basic treaty, created to prevent pollution from ships through routine operations or accident.¹⁴ Nigeria is a signatory to the MARPOL75/78/97 Conventions, and their amendments and consolidations.¹⁵ The Convention was ratified by Nigeria in May 2002, and domesticated via the International Convention for the Prevention of Pollution from Ships 1973 and 1978 Protocol (Ratification and Enforcement) Act, No. 54 of 2007.¹⁶ In further implementation of this Convention, the Merchant Shipping Act (MSA) of 2007.¹⁷ and the Merchant Shipping (Ship Generated Marine Waste Reception Facilities) Regulations

¹² L Kurukulasuriya & NA Robinson, *Training Manual on International Environmental Law*, (2nd edn, United Nations Environment Programme (UNEP), 2006) 168

¹³ A. Ibobo, Overview of Wetlands in Nigeria, (SAMSUNG E&A, Ambassador Report: 2018), <<https://tunsa.eco-generation.org/ambassadorReportView.jsp?viewID=44368#:~:text=9%20Wetlands%20in%20Nigeria%20are,Rima%20valleys%2C%20Hadejia%20Komadugu%20floodplains%2C>> accessed on 21st March 2025

¹⁴ IMO Publication, 'International Convention for the Prevention of Pollution from Ships (MARPOL)' <[http://www.imo.org/en/About/Conventions/pages/International-Convention-for-the-prevention-of-pollution-from-ships-\(MARPOL\).aspx](http://www.imo.org/en/About/Conventions/pages/International-Convention-for-the-prevention-of-pollution-from-ships-(MARPOL).aspx)> accessed 23rd March, 2025.

¹⁵ J Dimka, 'The IMO Regulations on Emission by Ships' *Financial Nigeria* <<https://www.financialnigeria.com/the-new-imo-regulations-on-emissions-by-ships-blog-522.html>> accessed 23rd March, 2025.

¹⁶ See the preamble to the Act.

¹⁷ Section 336 of the Merchant Shipping Act, 2007, made the provisions of the Convention applicable in Nigeria. It went further to vest the responsibility for preventing Pollution and for making regulations with respect to the Convention on the Minister in charge of merchant shipping.

2012 (“2012 Regulations”) were also enacted. Further, the convention shall have the force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive and judicial powers.¹⁸ Moreover, the marine environment departments of Nigerian Ports Authority (NPA) and the Nigerian Maritime Administration and Safety Agency (NIMASA) are to fashion out modalities for implementation. However, all these efforts of Nigeria have not solved the problem related to the safety of the marine environment.

(d) The 1958 Convention on the High Seas:

Nigeria ratified this Geneva Convention on June 26, 1961. However, an examination of the United Nations Treaty Collections did not show the exact date that Nigerian signed the Convention.¹⁹ Be that as it may, this convention is basically historical, and contains the traditional law of the sea. Thus, there was a complete overhaul of this convention at the Third United Nations Conference on the Law of the Sea in 1982.²⁰

(e) United Nations Convention on The Law of The Sea, (UNCLOS) 1982:

This Convention, which came into force on November 16, 1994, was signed and ratified by Nigeria on 10th December, 1982, and 14th August 1986 respectively.²¹ This convention, sometimes called the ‘constitution’ for the oceans’, established the international legal order of the oceans²². In relation to environmental protection, the convention established material rules concerning environmental standards as well as enforcement provisions dealing with pollution of the marine environment.²³ After

¹⁸ See Section 1(a), (b) and (c) of the Act No 54 of 2007

¹⁹ International Union for Conservation of Nature (IUCN), *Treaty >> Convention on the High Seas*, The Gateway to Environmental Law, ECOLEX <<https://qqq.ecolex.org/details/treaty/convention-on-the-high-seas-tre-000144/>> accessed on 23rd March 2025.

²⁰ Tullio Treves, 1958 Geneva Conventions on the Law of the Sea, *Audiovisual Library of International Law*, United Nations, 2023. <<https://legal.un.org/avl/ha/gclos/gclos.html>> accessed on 23rd March 2025.

²¹ Depository, “United Nations Convention on the Law of the Sea”, United Nations Treaty Collection, <https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en> accessed on 23rd March, 2025.

²² DB. Sandalow, ‘Law of the Sea Convention; should the Us Join?’ *Brookings Policy Brief Report*, (19 August 2004) <<http://www.brookings.edu/research/law-of-the-sea-convention-should-the-u-s-join/>> accessed on 23rd March, 2025.

²³ See Part XII of the Convention.

ratification, Nigeria domesticated its provisions in the Suppression of Piracy and Other Marine Offence Act (SUPMAO), and participated in international bodies that deals with its compliance, such as the International Seabed Authority. In compliance with the terms of this Convention, Nigeria also established Nigerian Maritime Administration and Safety Agency.²⁴ In fact, Nigeria benefitted from this convention. In May 2009.²⁵ It submitted a request to extend its continental shelf to the United Nations Commission on the Limits of the Continental Shelf (CLCS). This extension was gotten in May 15, 2024.²⁶

3. Legal Frameworks and Institutional Framework:

(i) Legal Frameworks:

a. The Constitution of the Federal Republic of Nigeria

The Constitution of the Federal Republic of Nigeria (Amended 1999 Constitution) is the foremost legal framework on international treaties. It stipulates under Section 12(1) that no treaty shall have force of law in Nigeria except to the extent to which such a treaty has been enacted into law by the National Assembly.²⁷ Clearly, this provision is a dualist ideology which upholds that national and international law operate in different spheres. In the dualist ideology it is taken that international law can only operate at domestic level after a domestic process has brought international law into the national legal system. Therefore, “in the dualists’ world, domestic law determines the applicability of

²⁴ See Nigerian Maritime Administration and Safety Agency Act, 2007; see also NIMASA, “International Seabed Association”, reportgov.ng, < [https://nimasa.gov.ng/service/legislation/international-seabed-association/#:~:text=In%202013%2C%20the%20Commission%20elected,polymer%20sulphides%20and%20cobalt%20crusts\).&text=The%20credentials%20committee%20consists%20of,to%20the%20Assembly%20for%20adoption.>](https://nimasa.gov.ng/service/legislation/international-seabed-association/#:~:text=In%202013%2C%20the%20Commission%20elected,polymer%20sulphides%20and%20cobalt%20crusts).&text=The%20credentials%20committee%20consists%20of,to%20the%20Assembly%20for%20adoption.>) accessed 23rd March, 2025

²⁵ See Federal Republic of Nigeria, “Executive Summary – A Submission of Data and Information on the Outer Limits of the Continental Shelf of the Republic of Nigeria Pursuant to Part VI of and Annex II to the United Nations Convention on the Law of the Sea” <https://www.un.org/depts/los/clcs_new/submissions_files/nga38_09/nga2009_executivesummary.pdf> accessed 23rd March 2025

²⁶ State House Press Release, “Extended Continental Shelf: Nigeria Gains Additional Territory as President Tinubu Receives Report from Committee”, (2023), The State House, Abuja <https://statehouse.gov.ng/news/extended--missions_files/nga38_09/nga2009_executivesummary.pdf> accessed on 23rd March 2025.

²⁷ Amended Constitution of the Federal Republic of Nigeria 1999 (Amended 1999 Constitution section 12(1))

international law.”²⁸ Monism, on the other hand, is of the view that both the national and international law exist simultaneously within the national legal system.

The constitutional provision that requires domestication of international agreement was brought to test before the Supreme Court of Nigeria in the case of *Abacha v Fawhinmi*.²⁹ In that case, the Respondent at the Supreme Court was Chief Gani Fawehinmi who was arrested without warrant at his Lagos residence on 30th January, 1996 by the combined team of the men of Directorate of Security Service (DSS) and the Nigeria Police. He was first taken to Bauchi State where he was detained without charge nor being informed of his offence. He applied to Federal High Court Lagos Division for the enforcement of his fundamental praying among other things for the court to declare that his arrest and detention was illegal and contrary to the Articles 4, 5, 6 and 12 of the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act (ACHPR Act), and that the respondents be ordered by the court to arraign him before a properly constituted Court or Tribunal as required by Article 7 of the ACHPR Act.

The Defendants at the Federal High Court and Respondents at the Court of Appeal) by way of a preliminary objection challenged to the jurisdiction of the Court. In allowing the preliminary objection and striking out the Appellant’s case, the Court decided that the Inspector General of Police had power to detain a person by the provisions of the State Security (Detention of Persons) Decree No. 2 of 1984 as amended by the State Security (Detention of Persons) (Amendment) Decree No. 11 of 1994. The Court ruled that any of the provisions of the African Charter on Human and peoples’ Rights which was in conflicts with the Constitution (Suspension and Modification) Decree No. 107 of 1993 was void to the extent of its inconsistency.

On further appeal, the Supreme Court, among other things, looked at the ACHPR Act with reference to the provisions section 12 (1) of the 1979 Constitution of the Federal Republic of Nigeria which is stipulated that “no treaty between the Federation and any

²⁸ E O Okebukola ‘The Application Of International Law In Nigeria And The Façade Of Dualism’ Nnamdi Azikiwe University Journal of International Law and Jurisprudence 11 (1) 2020 pages 15 - 20

²⁹ *Abacha v Fawehinmi* [2000] 6 NWLR Part 660 p 228

other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly” and held that “before its enactment into law by National Assembly, an international treaty has no such force of law as to make its provisions justiciable in our courts.” The Supreme Court relied on other foreign cases to arrive at its decision.³⁰ Similarly, in the case of *Higgs & Anor. V. Minister of National Security & Ors* the Privy Council held that:

Treaties formed no part of domestic law unless enacted by the legislature. Domestic Courts had no jurisdiction to construe or apply a treaty, nor could unincorporated treaties change the law of the land. They had no effect upon citizens’ rights and duties in common law or statute law. They... might give rise to a legitimate expectation by citizens that the government, in its act affecting them, would observe the terms of the treaty.³¹

b. The National Environmental Standards and Regulations Enforcement Agency (NESREA)

As have been explored earlier in this work, one of the efforts geared towards ameliorating the pains of millions of people all over the world is ensuring regional and national policy frameworks to match the already established international agreements. This has undoubtedly provoked the needs to establish environmental policies and enforcement agencies around the world and in Nigeria. NESREA is one of such legal mechanisms.³²

The Act empowers the Agency to be responsible for enforcing all environmental laws, guidelines, policies, standards and regulations in Nigeria, as well as enforcing compliance with provisions of international agreements, protocols, conventions and treaties on the environment to which Nigeria is a signatory. NESREA has responsibility for the

³⁰ The Supreme Court quoted the decision of the Privy Council in *Higgs & Anor. V. Minister of National Security & Ors*,²⁵ where it was held that the law of England and the Bahamas, the right to enter into treaties was one of the surviving prerogative powers of the Crown and that Treaties formed no part of domestic law unless enacted by the legislature. See also the case of *Oshevire v British Caledonian Airways*, where the Court of Appeal held that any domestic legislation in conflict with international conventions is void. Similarly, in the case of *Chae Chin Ping v. United States*, where it was held that treaties are of no higher dignity than acts of Congress, and may be modified or repealed by Congress

³¹ [2000] 2 AC 228; *The Times*, December 23, 1999.

³² S R Monsurat, R M Olalekan and S H Olawale ‘A Deep Dive into the Review of National Environmental Standards and Regulations Enforcement Agency (NESREA) Act’ *International Research Journal of Applied Science* 1 (4) 2019 pg 10

protection and development of 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 enforcement of environmental standards, regulations, rules, laws, policies and guidelines. While NESREA has received wide commendation as a good development in view of the relatively ambiguous environmental regulation in Nigeria,³³ its effectiveness has been challenged by numerous factors ranging from corruption, inadequate public awareness and weak enforcement mechanism.

c. The Petroleum Industry Act 2021

Nigeria's Petroleum Industry Act (PIA) 2021, which was recently signed into law sometime in August 2021 became one of the is one of the most viable attempts towards compliance negotiated multilateral environmental agreements targeting international standard of operation in Nigeria. The Act targets to provide legal, governance, regulatory and fiscal framework for the Nigerian Petroleum Industry

The Environmental Management Plan of the Petroleum Industry Act obviously considered the high risk of negative environmental impacts and as such, carved out the need to have a plan to manage the resulting effects of the situation. For instance, the provision of the PIA requires operators to submit for approval, an environmental management plan in respect of projects which require environmental impact assessment. As such the plan should be submitted within 12 months from the effective date of the PIA or six months after the grant of the applicable licence or lease.³⁴

Considering the rate of environmental pollution that emanates from oil exploration and production with negative effects on the human health, and the immediate environment, authors redefined, 'good oil field practice' to mean the concept of environmental

³³ N. Okechukwu, (NESREA) and The Challenges of Environmental Regulation in Nigeria (2024) *British Journal of Mass Communication and Media Research* 4(1)pg 5

³⁴ L Afuye and D Abdulai 'Petroleum Industry Act, 2021: The Road To Compliance For Upstream Companies' 10 May 2022 Available at: <Petroleum Industry Act, 2021: The Road To Compliance For Upstream Companies - Oil, Gas & Electricity - Nigeria (mondaq.com)> Accessed on 20th March, 2025

protection and sustainability. Interestingly PIA 2021, stipulated under the Act, the term ‘good international petroleum industry practices’ which suggests:

Those uses and practices that are, at the time in question, generally accepted in the international petroleum industry as being good, safe, economical, environmentally sound, and efficient in petroleum operations and should reflect standards of service and technology that are either state-of-the-art or otherwise appropriate to the operations in question and should be applied using standards in all matters that are no less rigorous than those in use by petroleum companies in global operations³⁵

This shows a concerted effort of the local legislation to comply with international standard of practice which is the thrust of MEAs.

Evidently, the coming on board of PIA has not only encouraged economic growth but has gone far to positively transform the petroleum sector in the opinion of authors thus:

The PIA has made some novel changes to the legal and institutional framework of the petroleum sector in Nigeria. Sweeping changes to the powers of the Minister of Petroleum resources, creating the Upstream Petroleum Regulatory Commission, Downstream and Midstream Petroleum Regulatory Authority, the NNPC Limited, Gas Infrastructure Fund, oil exploration in the frontier basins all appear to work towards achieving Nigeria’s economic objectives.³⁶

(i) Institutional Framework:

• **The Judiciary**

In the 2002, A United Nation Environmental Program (UNEP) Global Judges Symposium was held on the eve of Johannesburg World Summit on Sustainable Development-WSSD, whereupon the Principles on the Role of Law and Sustainable Development was adopted. The principle amongst other things, maintain that ‘an independent judiciary and judicial process is vital for the implementation, development

³⁵ M Ele ‘Oil Spills in the Niger Delta-Does the Petroleum Industry Act 2022 Offer Guidance for Solving this Problem?’. *The Journal of Sustainable Development, Law and Policy* 2022 pg 134

³⁶ P.I. Onuh ‘An Analysis of the Petroleum Industry Act 2021 as a Panacea to Achieving the Economic Objectives in Chapter Two of Nigeria’s Constitution’(2021) Benue State University Law Journal(10)pg 217

and enforcement of international environmental law’.³⁷ The gathering offered an ample opportunity for cross pollination of idea and shared expertise on environmental law and policy among the judiciaries, and by extension, law faculties and the entire legal profession across the region.³⁸

The courts in Nigeria derive their power from section 6 of the Constitution of the Federal Republic of Nigeria, 1999, (As Amended). Section 6(5) specifically empowers the Federal government and State government to establish such other courts as may be authorised by law to exercise jurisdiction on matters with respect to which the National Assembly and State Assemblies may make laws. The judicial powers vested in the courts in Nigeria are to be exercised and shall extend to all inherent powers and sanctions of the courts of law. The judicial powers shall extend to all matters between persons or between government or authority and to any person in Nigeria and to all actions or proceedings relating thereto for the purpose of determining any question as to the civil rights and obligations of that person.³⁹

To this regard, the main roles of the judiciary in Nigeria like in other countries of the world are “adjudication, interpretation of laws and exercising supervisory and judicial review functions over administrative bodies.”⁴⁰ There is no doubt that “it is pursuant to these judicial powers that the courts in Nigeria exercise jurisdiction over persons, authorities and companies, over conducts that infringe or breach environmental laws.”⁴¹ The courts are therefore expected to be seen to exercise jurisdiction by making pronouncements that punish offenders and prevent action or in-actions that injurious to environment at the same time provide compensation for victims of environmental harms.

The United Nations Economic Commission for Europe (UNECE) on 25th June 1998 birthed an international law known as Aarhus Convention which advanced litany of rights

³⁷ C Redgewell ‘National Implementation’ ‘The Oxford Handbook of International Environmental Law’..Edited by D Bodansky, J Brunnee and E Hey(2007, Oxford University Press) pg 930

³⁸ United Nation Environmental Program Global Judges Program 2005. Available at: <UNEP judges> Accessed on 19th November, 2025

³⁹ See Section 6(5) CFRN(As Amended 1999).

⁴⁰ S. A. Fagbemi And A. R. Akpanke ‘Environmental Litigation in Nigeria: The Role of The Judiciary (2019) Naujilj 10 (2) Pg 29

⁴¹ Ibid

to the public with respect to environmental governance that entered into force on 30th October, 2001. One of the core principles of the convention is Access to justice standing as the third pillar of the Convention.⁴² As contained in article 9 of the convention, access to justice implies:

1. review procedures with respect to information requests
2. review procedures with respect to specific (project-type) decisions which are subject to public participation requirements, and
3. Opportunity of challenging the breaches of environmental law in general

- **Non-Governmental Organisation (NGOs)**

NGOs are institutionalized groupings of people and resources, often from multiple societies, operating outside the direct authority of any government or collection of governments. For instance, individuals, not nations, are generally the constituent elements of an NGO. They are, in this sense, regarded as international institutions operating in parallel with the state leadership such presidents, Governors, ministers and all the arrays of state actors who dominate national affair.⁴³ Between 1968-1969, the United Nation General Assembly (UNGA) by Resolutions 2398 and 2581 resolved to conduct a conference which main object would be to “create a basis for comprehensive consideration within the United Nations of the problems of the human environment,” and to “focus the attention of Governments and public opinion in various countries on the importance of the problem.”⁴⁴ This resolution arguably contributed to the birth of the Stockholm Conference (1972), which is ‘The United Nations Conference on Human Environment’ (UNCHE).

In recognising the roles of NGOs Principles 11 & 25 of Stockholm Conference (1972), particularly Principle 11 states that the environmental policies of all States should

⁴² UNCE, ‘Access to Justice’ Available at <Access to Justice | UNECE> Retrieved on 10th November, 2024

⁴³ Jeremi Suri ‘Non-Governmental Organizations and Non-State Actors’ available at <*NGO-3-article-scan.pdf (jeremisuri.net)> pg 223 Accessed on 20th June, 2022

⁴⁴ S C Valson ‘Everything you need to know about the Stockholm Declaration’(2020) Available at: <Everything you need to know about the Stockholm Declaration - iPleaders> Accessed on 20th June 2022

enhance and not adversely affect the present or future development potential of developing countries, nor should they hamper the attainment of better living conditions for all, and appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures. Principle 25 followed suit and stipulated that States shall ensure that international organizations play a coordinated, efficient and dynamic role for the protection and improvement of the environment.⁴⁵

Over the time, the NGOs have played significant roles towards sustainable environment and emergence of several IEAs as such actively shaped by international institutions on issues such as ozone layer depletion which the United Nations Environmental Programme (UNEP) helped to shape. So also, climate change where World Meteorological Organization (WMO and UNEP) played active role. In the same manner, the Transboundary Movements of Hazardous Wastes witnessed the help of UNEP. Food and Agriculture Organisation (FAO and UNEP) helped in shaping Persistent Organic Pollutants.⁴⁶

The Socio-Economic Rights and Accountability Project (SERAP) was birthed in 2004 and as a non-governmental registered under the instant laws Nigerian. Its role span using legal and human rights machineries to propel the government towards transparency, accountability and protection of economic and social rights in Nigeria. It targets amongst other things use human rights law to address developmental and human rights issues generally.⁴⁷

⁴⁵ S C Valson 'Everything you need to know about the Stockholm Declaration'(2020) Available at: <Everything you need to know about the Stockholm Declaration - iPleaders> Accessed on 20th June 2022

⁴⁶ B H Desai 'Creeping Institutionalization Multilateral Environmental Agreements & Human Security' InterSecTions 'Interdisciplinary Security ConnecTions' Publication Series of UNU EHS No. 4 (2006) pg. 12 Available at: < (PDF) Multilateral environmental agreements (researchgate.net)> Accessed on 30th June, 2022

K. kumar 'International Environmental Agreements: A Historical Overview' Available at: 8146b10ffe6909b7ddf87dadfe62039c.pdf (shivajicollege.ac.in). Accessed on 20th June 2022

⁴⁷ Adetokunbo Mumuni '**SERAP: promoting transparency and respect for socio-economic rights: Introduction from the Executive Director, SERAP**' Available at <Who We Are – Serap Nigeria> Accessed on 20th March, 2025

SERAP has featured in many cases in Nigeria in getting Nigeria to comply with its international obligations particularly with respect to international environmental treaty obligation. For instance, among numerous litanies of cases, in 2009, SERAP file against the Federal Government of Nigeria and six oil companies over alleged violation of human rights and associated oil pollution in the Niger Delta.

In that case, SERAP basically alleged “Violations of the right to an adequate standard of living, including the right to food, to work, to health, to water, to life and human dignity, to a clean and healthy environment; and to economic and social development – as a consequence of: the impact of oil-related pollution and environmental damage on agriculture and fisheries.”⁴⁸ In reaching a decision Court unanimously found the Nigerian government responsible for abuses by oil companies adding that Nigeria violated articles 21 (on the right to natural wealth and resources) and 24 (on the right to a general satisfactory environment) of the African Charter on Human and Peoples’ Rights by its failure to protect the Niger Delta from the harm orchestrated on them by the oil companies that have for many years devastated the region.⁴⁹

- **National Human Rights Institutions**

National Human Rights Institutions (NHRI) have become viable tools towards achieving international obligations especially as it relates to human rights. For instance, in pursuit of the 2030 Agenda on SDG, Goal 16 stipulates recommends the “Existence of independent national human rights institutions in compliance with the Paris Principles.”⁵⁰ In the same vein, in October 2015, the Global Alliance of NHRI (GANHRI) agreed on the Merida Declaration on The Role of NHRIs in implementing the 2030 Agenda for Sustainable Development, the Declaration states “NHRIs are uniquely placed to play a

⁴⁸ Available at< Serap Nigeria – Official Website> Accessed on 28rg February 2025

⁴⁹ Ibid

⁵⁰ Steven L. B. Jensen ‘The Role of National Human Rights Institutions in the Implementation of the 2030 Agenda’ (Paper for UN Expert Group Meeting on Tackling global challenges to equality and inclusion through the gender responsive implementation of the 2030 Agenda for Sustainable Development) pg 1 Available at < One pager> Accessed on 15th March, 2025

bridging role between stakeholders and promote transparent, participatory and inclusive national processes of implementation and monitoring...”⁵¹

The National Human Rights Commission (NHRC) in Nigeria plays similar role by its act of establishment in ensuring compliance with international human rights treaties. For instance, article 5(a) provides that:

The Commission shall deal with all matters relating to the promotion and protection of human rights guaranteed by the Constitution of the Federal Republic of Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, the International Convention on the Elimination of all forms of Racial Discrimination, the International Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the Convention on the Rights of the Child, the African Charter on Human and Peoples’ Rights and other international and regional instruments on human rights to which Nigeria is a party⁵²

So far, the NHRC, even though has limited powers to enforce compliance, it has via its complaint structure attended to numerous cases emanating from corporate abuse by exercising its mediatory power on victim corporate abuses thereby offering viable and binding recommendations.⁵³

4. Challenges of Compliance and Implementation

In interrogating the legal and institutional framework on the compliance and implementation of IEAs in Nigeria emanates mostly from poor implementation. Many factors are responsible for the lack of compliance or poor implementation of negotiated IEAs.

- i. **Poor Negotiation Attitude by Individual Countries:** Process leading to adoption and ratification treaties plays significant role towards compliance and its domestic implementation. While research are mostly focused on the challenges of climates

⁵¹ Ibid

⁵² See Article 5(a) National Human Rights Commission Act 2010

⁵³ O.M Atoyebi ‘Analyzing the Role of the National Human Rights Commission in Protecting Victims of Corporate and State Abuse’ August 21st 2025. Available at: <Analyzing the Role of the National Human Rights Commission in Protecting Victims of Corporate and State Abuse - The Loyal Nigerian Lawyer> Accessed on 21st November, 2025

change and poor attitude of states on compliance with international obligation, the process of treaty negotiation becomes and overlooked aspect. The process of negotiation is an essential platform that provides the opportunity for resolving every foreseeable barrier and diplomatic intricacies associated with the treaty under discussion. Non-participation of the relevant authority during negotiation of treaty is one of the major challenges that inhibits compliance and implementation of international obligation required by that treaty.⁵⁴ For instance, there is a recent global call to end plastic pollution. In preparation for the potential treaty, Nigeria Plastic Treaty Preparatory Session was convoked and was hosted by Community Action Against Plastic Waste (CAPWs). This was done in collaboration with Federal Ministry of Environment.⁵⁵ However, beyond preparation is an actual participation during negotiation.

- ii. **Proliferation of Treaties:** “Treaty congestion” is a serious inhibiting factor to effective implementation of multilateral environmental agreements said Prof Weiss.⁵⁶ Recent years have witnessed serious proliferation of environmental treaties. Although Art. 30 Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations (1986),⁵⁷ such surge in the number of environmental agreements gives room for inconsistencies, overlapping provision, duplication of aims and incoherency.
- iii. **Domestic Constraints:** peculiarity in legal and socio-economic situation often make domestic compliance and application of negotiated treaties difficult. There is the challenge of peculiarity of internal difficulties faced by developing countries such as modus of translating treaties into domestic laws for effective implementation. Section 12(10) of the CFRN, 1999 (As Amended) makes clear

⁵⁴ C.E Okeke and M.I. Anushein ‘Implementation of Treaties in Nigeria: Issues, Challenges and the Way Forward’ (2028) NAUJILJ 9 (2) pg 226

⁵⁵ Ahmed Tiamiyu - Community Action Against Plastic Waste (CAPWS), Nigeria Plastic Treaty Preparatory Session(2023). Available at<Nigeria Plastic Treaty Preparatory Session - GAIA> Accessed on 27th March, 2025

⁵⁶ E. B. Weiss, International Environmental Law: Contemporary Issues and the Emergence of New World Order 81 Geo L.J 675(1993) pg 697

⁵⁷Art. 30 Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations (1986)

stipulations to the effect that no such international treaty shall have force of law in Nigeria unless to the extent such law is domesticated by the National Assembly.

5. Conclusion and Recommendations

As the world continue to grow and countries of the world become more aware, the gap between international law and domestic law continue to fizzle out. In essence, the barrier that inhibits compliance and implementation of negotiated international environmental agreements becomes more visible, and easy to tackle. On the face of strict legal and poor institutional arrangements towards IEAs, this paper reveals the inherent challenges such as poor or lack of awareness, corruption, poor implementation mechanism. It offers some potential solutions that can ensure effective compliance and implementation of IEAs. As global environmental harm knows no bound so also the journey towards effective solution demands cross sectoral and more advanced approach. This paper recommends thus:

- i. **Provision of Pre-negotiation and Technical Assistance to Ministries, Departments and Agencies (MDA) from Participating Countries:** Quite often, regular information and proper briefings are usually not readily made available to relevant participating MDAs nor are these they exposed to strategic advice that are required in preparation for the complex negotiation. The recent Plastic Treaty Preparatory Session which was convoked and hosted by Community Action Against Plastic Wastes (CAPWs) in collaboration with Federal Ministry of Environment is one of its kind.
- ii. **Training and capacity building for government and judicial officers on civilized and international standard of environmental governance:** Considering the continuous rise and proliferation of international environmental agreements many of which a purpose driven on specific environmental challenges, there need for more in-depth and unceasing training opportunities on government, judicial officers and by extension, all stakeholders on environmental matters to improve the capacity. This practice will ensure a more robust training program where every stakeholder including the members of the public and civil society bodies are kept in

tune with recent mechanisms for environmental governance. It is recognized that the lack of information and capacity in turn inhibits political will to act.

- iii. **Encourage the roles of Non-governmental Institution on creating awareness:** In this work, the efforts and contributions of non-governmental IEAs were explored and shown in good light. Their interests are not state-centric as such have always provided and taken unbiased position.⁵⁸ Overall, they have “played an increasingly important part in environmental treaty making. In similar trend, NGOs can be employed to use their expertise in creating awareness on the need for compliance and implementation of IEAs.

⁵⁸ L. E. Susskind and S. H. Ali, in their book, ‘Environmental Diplomacy: Negotiating More Effective Global Agreements’(2nd Edition, Oxford : Oxford University Press 2015) pg 36