COMMUNITY-DRIVEN ENVIRONMENTAL JUSTICE: ASSESSING THE ROLE OF LOCAL PARTICIPATION IN POLLUTION MITIGATION AND REDRESS MECHANISMS IN NIGERIA*

Abstract

Community-driven environmental justice is a critical response to the persistent challenges of pollution, weak regulatory enforcement, and socio-economic marginalization in Nigeria's oil-producing and industrial regions. This study examines the role of local participation in pollution mitigation and redress mechanisms, highlighting how empowered communities can influence environmental governance and promote accountability. The objective is to evaluate the extent to which grassroots involvement strengthens environmental justice outcomes. Employing a predominantly doctrinal methodology, the research draws upon legislation, judicial decisions, policy documents, and existing frameworks supporting community engagement. The study finds that despite constitutional and statutory provisions enabling public participation, significant gaps persist in implementation. Communities often lack access to information, technical capacity, and effective platforms for decision-making. Nevertheless, where participatory structures such as community-based organizations, local monitoring groups, and public interest litigation have been utilized, measurable improvements in environmental oversight and dispute resolution have occurred. The study recommends strengthening legal frameworks, environmental education, establishing accessible grievance-redress institutions, improving enforcement mechanisms and judicial support for community-led environmental action. In conclusion, empowering communities through legal recognition, institutional inclusion, and access to remedies is essential for achieving effective pollution mitigation and environmental justice in Nigeria.

Keywords: Environmental justice, environmental governance, pollution, public interest litigation, Nigeria's, oil-producing regions, redress mechanisms

* Oyediran Samson Akinlolu, Legal Researcher, Managing Partner, Echo Chambers, LL.M (UniAbuja), BL (Abuja), LL.B (Hons) (Lead City, Ibadan), FIMC, MBA (U.I), MMP (U.I), AMNIM, CMC, AMNIMN, CMS (London), AMIPD-CRM, HND (FPI, Ogun State), OND (The Polytechnic, Ibadan), PhD (In View). Lecturer, College of Law, Achievers University, Owo, Ondo State. Email: oyediran.sa@achievers.edu.ng / samkoye50@gmail.com

1. Introduction

The consequence of man's activities in relation to its environment has assumed great direction in recent time that environmental issues are becoming more topical in the communities to the extent that a concept of development anywhere today without an inherent adoption of the sustainable Environmental Management of the community is invariably regarded as anachronistic. The term Environment is defined by the Black's law dictionary as the totality of physical, economic, cultural, aesthetic and social circumstances and factors which surrounds and affect the desirability and value of property and which also affect the quality of people's lives.[1] Section 37 of the National Environmental Standard and Regulation Enforcement Agency (NESREA) Establishment Act 2007 defines 'environment' as includes water, air, land, and all plants and human beings or animals living therein and the inter-relationships which exist among these or any of them.[2]

Environmental degradation remains one of the most pressing socio-legal challenges confronting Nigeria. Oil pollution in the Niger Delta, industrial emissions in urban centers, improper waste disposal, gas flaring, and soil contamination all pose direct threats to livelihoods, public health, and ecological stability. Despite the proliferation of environmental legislation and regulatory institutions, pollution persists at alarming levels, reflecting systemic governance failures, weak enforcement culture, and entrenched inequalities. The environment within any community is a creature of nature and not of man, the natural resources which it develops are products of several billions of years of evolutionary changes in the natural order of things. The ecosystem is an intricate of web of relationship fashioned by nature to maintain a stable equilibrium by recycling its resources, though, man is outside this intricate recycling system but consciously subverts this law by forcing nature to bow to the dictates of his authority armed with modern technology.

Moreover, Nigerian courts have increasingly recognized the legitimacy of community-led environmental claims. In *Gbemre v Shell Petroleum Development Co. Ltd*, the Federal High Court linked gas flaring to violations

1 A.G. Bryan, Black's Law Dictionary, 12th Edition, Dallas Texas, USA, (2019) 895.
2 NESREA Act, 2007.

of the constitutional rights to life and dignity, marking a significant shift toward rights-based environmental justice.[3] Similarly, the Supreme Court's decision in *Centre for Oil Pollution Watch v NNPC* relaxed restrictive standing rules and affirmed the duty of oil operators to prevent and remediate pollution.[4] These cases underscore the growing judicial acknowledgment of community participation as a necessary component of environmental protection.

Within this context, community-driven environmental justice has gained prominence as an alternative and complementary approach to achieving sustainable environmental outcomes. It reflects the growing recognition that affected communities possess unique knowledge, lived experiences, and moral stakes that position them as indispensable actors in environmental governance. Their participation is not only instrumental for pollution mitigation but also foundational to ensuring fairness, accountability, and legitimacy in environmental decision-making. Nigeria's environmental governance architecture has historically been state-centric, with limited space for grassroots participation. Yet, communities particularly those in oil-producing regions have borne the disproportionate burden of ecological harm. This imbalance has fueled conflict, public distrust, and widespread perceptions of environmental injustice. Local engagement thus emerges not as a mere procedural requirement but as a justice imperative.

Moving forward, community-driven mechanisms are not without challenges. Legal technicalities such as locus standi, evidentiary burdens, prolonged litigation, and inadequate remedies often undermine the effectiveness of community participation. Moreover, statutory frameworks such as the Environmental Impact Assessment Act and the NOSDRA Act, while recognizing public participation, do not sufficiently empower communities with enforceable decision-making authority.[5] Consequently, participation is frequently reduced to consultation without meaningful influence. This paper assesses the role of local participation in pollution mitigation and redress mechanisms in Nigeria, arguing that community-driven environmental justice

3 *Gbemre v Shell Petroleum Development Co. Ltd (2005) AHRLR 151 (HC).*

4 *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation (2019) 5 NWLR (Pt. 1666) 518.*

5 Environmental Impact Assessment Act, Cap E12 LFN 2004; National Oil Spill Detection and Response Agency (Establishment) Act 2006.

offers a viable pathway for bridging enforcement gaps and strengthening accountability. It contends that sustainable environmental governance in Nigeria depends on moving beyond symbolic participation toward legally entrenched community-centred enforcement and remedial frameworks. To this end, the roles of community participation in pollution mitigation and access to environmental redress cannot be over emphasized.

2. Overview of Pollution and Environmental Governance in Nigeria

The Niger Delta region has long suffered from extensive oil pollution due to decades of oil exploration, pipeline corrosion, operational failures, crude theft ("bunkering"), and inadequate spill response. Oil spills introduce crude into waterways, soil, and farmlands, devastating ecosystems and human health, and undermining livelihoods dependent on fishing and agriculture. Recent data shows thousands of spill incidents over the past decades, between 1976 – 2001, affecting multiple states and communities.[6] Nigeria's environmental challenges arise from diverse sources, including oil exploration, mining, manufacturing, urbanization, and poor waste management practices. The Niger Delta exemplifies the devastating consequences of extractive activities—oil spills, gas flaring, contaminated water bodies, and disrupted livelihoods. Urban environments face air pollution, industrial emissions, and waste disposal crises.

Environmental pollution is the introduction of any substance in such characteristics as for such duration as to produce deleterious effect on the living things. Modern technology and ever-increasing human population have brought about pollution to such an extent that many scientists believe that the existence of man and other forms of life on the earth is being seriously threatened. NESREA defines pollution as "means man-made or man-aided alteration or chemical, physical, or biological quality of the environment beyond acceptable limits and 'pollutants' shall be construed accordingly.[7] "The concepts of "harm" and damage plays a central role in defining pollution. The nearby streams are now rendered lifeless and the land on which waste is dumped no longer support plant life. Furthermore, In Nigeria,

6 United Nations Development Programme (UNDP) Niger Delta Human Development Report, 2006.

7 National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007, s. 37 (Interpretation Section), Laws of the Federation of Nigeria (LFN) 2004 (as amended).

environmental laws and regulations have arisen at the federal, state and local government to curb the effects of pollution. These laws and few of the provisions of the 1999 constitution of the federal republic of Nigeria must be cited though, non-justiciable for environmental litigation. These laws will be common law remedies, legal remedies, dispute resolution or alternatives dispute resolution.

Legal remedies, according to the Oxford Reference Dictionary, are any methods available at law for the enforcement, protection, or recovery of rights or for obtaining redress for their infringement.[8] These are remedies allowed or provided by laws prior to the enactment and dissolution date. These are common law torts of Nuisance, Negligence, Trespass and the rule in *Rylands v. Fletcher;* other legislations are both primary and secondary; other dispute resolution remedies, and legislation or alternatives.[9]

2.1 *Land Pollution*

Land is the surface of the earth; land pollution is the spilling of oil that spread on land, which automatically affect or impair soil fertility. Land pollution in Nigeria arises from improper waste dumping, industrial effluents, oil spills, and structures degrading soil quality. Urban centres like Lagos and Port Harcourt reveal unlawful dumping of refuse and sand dredging, exacerbating land degradation.[10] Soil erosion, particularly gully erosion in the southeastern region has created large gullies consuming infrastructure and farmlands.[11]

The main impacts include reduced agricultural productivity, biodiversity loss, and increased flood risk due to blocked drainage systems caused by solid waste accumulation.[12] The sources also include anything lain on the land mines as booby traps and other military devices. The major source of land pollution in the modern era is the development of technology which promotes industrialization and led to urbanization and over concentration of the world population in particular area of landmass.

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8 Oxford Reference, Oxford University Press, Oxford, England, United Kingdom. Retrieved January 25, 2026.

9 *Rylands v. Fletcher, (1868) LR 3 HL 330.*

10 AP News, Africa's megacity of Lagos reshapes its coast by dredging and puts environment at risk (Jan. 12, 2026).

11 Nigeria gully erosion crisis.

12 5 Nigerian cities struggle with pollution analysis (Patriot.ng, 2025).

Meanwhile, the most dangerous source of land pollution is nuclear toxic waste. It is the dumping of containers of this waste and subsequent discovery in Koko, Delta state, that now gingered up the Nigeria nation from its slumber on environmental protection leading to the promulgation of Harmful Waste (Special Criminal Provisions etc.) Act 1988, now. Cap 111 laws of the federation of Nigeria, 2004.[13]

As a further State intervention affecting property, any liability regime would have important implications for land use in general and the property market in particular. This explains in large part, the abandonment of attempts in the early 1990's to introduce registers of potentially contaminative uses of land under what was section 143 of the Environmental Protection Act 1990.[14] The introduction of this provision followed a number of parliamentary reports and several policy statements by the then government.

2.2 *Water Pollution*

Water is an essential factor in environment substance, and it can be polluted through various means including oil operations in the ocean, river, stream and lakes, when this happens, these waters are severely affected often leading to the death of aquatic life. In other words, fish and other species of animals found in the marine environment are either killed or chased into deep waters. The major cause of this type of pollution is the toxic substance found, which produce waste. Water pollution can occur through the deposit on or dumping of oil operation waste like mud, sand and salt. See case of *Elf Nigeria Limited v Opere Sillo*.[15] In the same vein, oil operating demand result in oil spill can cause pollution of the river and streams, by rendering them stagnant. Similarly various industrial water both solid and liquid have been identified as a cause of water pollution. Oil pollution of rivers, lakes, and streams in the Niger Delta have had damaging effects on fishermen plying their trade.

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13 Harmful Waste (Special Criminal Provision) Act 1988, later changed to Cap 111 laws of the federation of Nigeria, 2004.

14 section 143 of the Environmental Protection Act 1990.

15 *Elf Nigeria Limited v. Opere Sillo*. (1994) 6 NWLR (Pt. 350) 258; LPELR-1115(SC) (Supreme Court of Nigeria).

2.3 *Air Pollution*

Air pollution is caused by the emission of a variety of harmful gases into the atmosphere thereby altering its natural state and posing danger to the environment. In the oil industry, the continued flaring of associated gas has contributed immensely to the pollution of our atmosphere. This is a result of the emission of deadly substances like Methane and Benzene which pose various health hazards to the host communities. But beyond the oil and gas industry, increased activities in our urban dwellings have contributed equally to air pollution through the emission of carbon dioxide and other gases. Furthermore, air pollution includes soot, ash, grits, and guilty particle through nuisance proceeding in egress of smoke emitted from railways locomotors steam engine.

2.4 *Noise Pollution*

This type of pollution is now a common occurrence in urban Areas, where commercial and industrial activities are part of everyday life. A major contribution to this type of pollution comes from vehicular activities when horns are blared indiscriminately by impatient drivers. The problem of noise pollution can be compounded in the same area by the introduction of high-speed train. A number of air parts are not covered by noise insulation schemes. It is a frequent complain that flying military air crafts are major causes of noise nuisances, yet they are hardly subjected to any legal regulation. Other causes of noise pollution include excessive music from variety of sources advertising their works or products especially cassette and CD traders, excessive noise and sound emanating from a variety of churches, mosques, and prayer houses in the course of worshipping and excessive domestic noise emanating from social and cultural activities like burial, concerts, wedding ceremonies etc.

3. Incidents of Community Pollution in Nigeria from Oil Spill

There is no doubt that one of the major causes of pollution in our society today is the oil spillage activities of multinational companies. Environmentalists, like friends of the earth, reckon that increase in the level of oil mining in various parts of the world in the last 30 years have contributed greatly to the pollution and degradation of global environment in the oil industry, pollution occurs mainly though oil spill, gas flaring and discharge of produce water. In the course of explorations, production storage and

transportation of crude oil, such events may happen, which ultimately result in the spillage of this product. It could be due to equipment failure or malfunction or well blow out. It would also be attributed to pipeline failure, storage tank failure or loading house failure. In some cases, the cause has been traced to sabotage, now a common phenomenon in the environmentally ravaged Niger Delta region of Nigeria. Whatever may be the cause of the oil spill, one thing is clear and that is the danger it poses to the environment. Even with the extensive remedial, effect on the reputation and eco-system are often devastating. The oil spill caused by equipment failure in British petroleum deep water production in the Gulf of Mexico in the United State in 2010 is still fresh in our memories. The effect was, to say the least, utterly destructive.

Furthermore, incidence of this nature is common in the oil producing areas. This has progressively been on the increase and with increase in the level of pollution, the victims are the local inhabitants whose farm land, fish ponds, lakes, creeks and even residential accommodation are either severely degraded or outrightly destroyed, following spills.

Also, there are cases, which clearly depict the picture of oil spill incidents in the oil producing areas of Nigeria where individuals and communities affected have gone to court for compensation. See the case of; *Shell Petroleum Development Company Nigeria limited v TIEBO VII and QRS [2005] 3-4 SC*[16] *and* the case of *Anthony Atube v Shell British Petroleum Development Company of Nigeria limited* [17]a claim for damages arising from defendant's oil operations which led to the escape of crude oil, gas, and other chemicals from their pipelines and consequently polluted the plaintiff's farm land and lakes and killed their fishes. It failed for lack of evidence of Negligence arising on the part of defendant. Also, in *Chief Simon Onakoje v Seis Morgraph Service Limited*, the claim for damages for negligence succeeded after the court found that there was evidence of same on the part of the defendant in the course of blast operations which resulted in damage to the Plaintiff's buildings.[18] See also Ogoni's case (2001) that strongly emphasized the role of local

16 *Shell Petroleum Development Company Nigeria limited v TIEBO VII and QRS [2005] 3-4 S.C.*
17 *Anthony Atube v Shell B.P Development Company of Nigeria limited.*
18 *Chief Simon Onakoje v Seis Morgraph Service Limited.*

communities in promoting environmental protection and holding corporations accountable for the outright destructions and colossal damages by them.[19]

However, another case worthy of mention here is that of, *Shell Petroleum Development Company Nigeria Limited v Ambah.*[20] Here, the plaintiffs/ Respondents claimed the sum of N30,000 as damages by way of compensation for the total or permanent destruction of their family fish ponds, fish lakes, fish channels and Greeks lying and situate at Asesaoba near Beniseide oil fields. The destruction occurred when mud dredged from the land in the precession of the defendant's oil company covered the soil, fish ponds and lakes. According to the Plaintiffs, this incident denied the entire family of their means of livelihood. There was no doubt that the Plaintiffs claim was based on negligence.

The Supreme Court held that the Plaintiff's case being one for total destruction of fish ponds, lakes and channels as a result of wrongful act of the defendants or Appellant, and same having been accepted by the defendants/respondents, the Plaintiffs/Respondent's family was only entitled to the market value of the property destroyed and no more. The court further held that it was an error for the courts below to have awarded the Plaintiff's /Respondents special damages for continuing loss of income from 1976 when the injury occurred until the date of judgement in 1987. This was because the Plaintiffs/ respondents never pleaded since nor was any evidence given in support. The most important aspect of this case is that the Supreme Court, the apex court never quarried the basic or authority to geo-warrantee the Plaintiff's claim namely Negligence.

4. Legal Remedies and Control Measures

The protection and preservation of the community's environment is now perceived as being of crucial importance to the future of mankind. Global awareness arose as to how much harm, man was exposing himself to through reckless abuse of the environment hence, the need to curb it. In 1986, an explosion occurred at the Chernobyl nuclear power plant, near the city of Pripyat, Ukrainian SSR and blasted 50 tons of nuclear fuel into the atmosphere. This resulted in pollution of land, air, water, and increased the

19 *SERAC v Nigeria (2001) AHRLR 60 (ACHPR 2001).*

20 *Shell Petroleum Development Company Nigeria Limited v Ambah.*

rate of cancer in human to more than 4,000 cancer deaths according to WHO reports. Also in 1986, a warehouse caught fire in Switzerland resulting in the flow of agricultural chemicals, solvent and mercury into River Rhine Killing millions of fish and threatening the safety of drinking water in the Federal Republic of Germany and in the Netherlands. Also, land degradation caused millions of environmental refugees to cross borders. The effects of global warming caused by the emission of greenhouse gases are one of the consequences of the destruction of the ozone layer. The first international conference on the environment was the 1972 Stockholm conference of the United Nations. UN at the conference declared that, man is both the creature and molder of his environment, which gives him physical sustenance, and afford him the opportunity for intellectual, moral, social and spiritual growth.[21]

Moreover, Nigeria became a part of the International Convention of Oil Pollution Preparedness Response and Co-operation in 1995. The UN environmental programme resulted from the conference were in four parts. Firstly, there were 26 Declaration or principles; coupled with an action plan containing 106 recommendations that was included in the proposal to set up the earth watch.[22] Environmental fund was set up which would be funded by members on voluntary basis and fourthly, the UN environmental programme was set up with the aim to develop international environmental law.

The most outstanding impact of the Stockholm conference was principle 21 which states that "state have the responsibility to ensure that activities within their jurisdiction and control do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction. Principle 22 calls upon states to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction of control of such states to areas beyond their jurisdiction. There were a lot of treaties bothering on the environment internationally, globally and regionally. Nigeria signed to a number of treaties aimed at protecting the environment and preserving the depleting natural resources amongst these treaties are Universal Declaration of

21 United Nations Stockholm Declaration (1972) Conference.
22 UN environmental programme (UNEP).

Human Right 1948, Convention on the Continental Shelf 1958, Convention on the High Seas 1958, African Charter on Human and People's Rights, Vienna Convention for the Protection of the Ozone Layer 1985, and Treaty banning nuclear weapons tests in the atmosphere.

5. Assessment of Community-Driven Environmental Justice Mechanisms

1. Community-Based Organizations (CBOs): CBOs play a crucial role in environmental monitoring, advocacy, and mobilization. They act as intermediaries between communities and regulatory bodies.
2. Local Environmental Monitoring Groups: Community monitors help detect spills, document pollution events, and hold companies accountable. Examples include volunteer environmental watchdog groups in oil-producing areas.
3. Traditional Institutions: Chiefs and community elders/ leaders often mediate disputes, facilitate dialogues, and manage local environmental resources.
4. Public Interest Litigation and NGOs: NGOs support communities with legal expertise, research, and capacity building. This enhances access to environmental justice.
5. Community Consultations in EIA Processes: Where meaningful, consultations result in better project design, mitigation plans, and monitoring.

6. Common Law and Civil Remedies for Oil Pollution in Nigeria

Common law can be used to control environmental damage, but its primary function is to protect private rights which can be done through a number of ways. This forms the primary or formal *Corpus Juris* of environmental law in Nigeria. The common law, torts of Nuisance, negligence, trespass and the rule in *Rylands v Fletcher* apply specifically to oil pollution. Nigeria in 1876 received all common laws, doctrines of equity and statutes of general application (SOGA). They were made applicable to Nigeria on January 1st, 1909. Common law still applies to Nigeria in the absence of any later legislation repealing or modifying the received English law. These common law remedies are:

6.1 *Negligence*

One of the most frequently invoked common law remedies available to victims on environmental pollution is the tort of negligence. The tort of negligence has gained prominence since the 1980s in the case of *Donoghue v Stevenson.* Lord Atkins in this case established the Neighbour's principle and stated:" [23]The rule that you are to love your neighbour becomes in law that, you must not injure your neighbour, and the lawyer's question,' who is my neighbour? Receives a restricted reply. You must take reasonable care to avoid acts or omissions which you reasonably focus would be only to injure your neighbour. Who then is your neighbor? The answer seems to be persons who are so closely and directly affected by my acts that 1 ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are in question. The tort of Negligence connotes the complex concept of duty, breach and damage thereby suffered by the person to whom the duty was owned. Negligence may be an ingredient of another tort (e.g. nuisance) it may be an independent tort of its own right. As an independent tort, negligence may be said to be a breach of a legal duty to take care which results in damage underserved by the defendant to the plaintiff. For an action in negligence to succeed, it must be established that the defendant was negligent in the exercise of his specific duty of care. For an action in negligence to be established, three elements must be established:

1. A duty of care by the defendant to the Plaintiff.
2. A breach of duty by the defendant.
3. Damage to the Plaintiff resulting from the breach.

The Plaintiff has to prove upon preponderance of evidence, that the defendant owes him a duty of care. In *Shell Development Company Limited v Otoko*, the respondents who were the Plaintiffs at the trial court claimed for damages being and as representing compensation payable by the defendants for injurious affliction to and deprivation of the use of Andoni River and Creeks as a result of the spillage of crude oil caused by the Negligence of the defendant.[24] The Plaintiffs has to discharge the onerous duty of proving that the defendant is in breach of the duty of care and that the breach was the proximate cause of the damage suffered.

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23 *Donoghue v Stevenson. [1932] AC 562.*

24 *Shell Development Company Limited v Otoko,* [1990] 2 NWLR (Pt. 131) 244.

6.2 *Nuisance*

The word "Nuisance" is used in popular speech to mean any source of inconveniences or annoyance. In terms of tort, nuisance may be defined as unlawful interference with the Plaintiffs use or enjoyment of his land. In *Hargrave v Goldman,* Windeyer, J. pointed out that, in nuisance, liability is founded upon a state of affairs created, adopted or continued by one person (otherwise than in the reasonable and convenient use of him of his land) which, to a substantial degree harms other person (an owner or occupier of land) in his enjoyment of had."[25] Nuisance includes emission of noxious fumes from a factory, the crowing of cocks in the early hours of the morning, diseases or germs brought onto a property is a form of nuisance, the obstruction of a public right of way, interference or enjoyment of property by water, smoke, smell fumes, gas, noise, heat, vibration, electricity, animals and vegetation, the destruction of a building through vibration and the interference with an easement or way.

Moreover, there are two types of nuisances, private nuisance and public nuisance. Where an action is founded on nuisance, there is usually some doubt whether private nuisance would apply or public nuisance. A private nuisance is the substantial or unreasonable interference with a person use and enjoyment of land occupied by him. Private nuisance applies where the nuisance does not emanate from the usual cause of neighbouring property. In *Seismography service v Akpomovo*, the Plaintiff claimed that vibrations destroyed his three buildings, two of the houses and the household goods in the cause of Seismic operations in the 1960's; the trial judge awarded damages to the Plaintiff.[26] The oil company appealed to the Supreme Court. The court allowed the appeal and set aside the judgment of the lower court. Sowemimo JSC held that "The evidence of the plaintiff did not establish the liability, if any, of the appellant company" In *Halsey v Esso Petroleum Co. Ltd,* the defendants owned and operated a depot, which was used for the distribution of oil. [27]They were held liable in private nuisance for damage caused by the action of acidic Smilt to the Plaintiff's laundry, the nauseating smell and noise caused by the operation of the plant and the movement of tankers.

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25 *Hargrave v Goldman* (1963) 110 CLR 40; (1963) HCA 56 (High Court of Australia, 22 November 1963).
26 *Seismography service v Akpomovo*, [1973] 6 SC 119.
27 *Halsey v Esso Petroleum Co. Ltd* [1961] 1 WLR 683.

However, for a person to institute an action in private nuisance, such a person must be an owner or occupies the land. The person must be directly involved in the action. Public nuisance on the other hand occurs when damage, injury or inconvenience is inflicted on the public or a clean of public which comes within its sphere of operation. By public nuisance, public property is damaged. The nuisance is a criminal offence but may also give rise to an action in tort. The Plaintiff must prove that the nuisance caused the damage which is particular to him/her.

The major differences between private and public nuisance are;

1. Private nuisance is a tort and ipso facto actionable by a private individual under certain criminal circumstances while public nuisance is a crime and ipso facto actionable at the instance of the Attorney General.
2. In private nuisance, the plaintiff must have an interest in the land to succeed whereas in public nuisance the plaintiff is required to prove that the defendant's activity in some way interfered with the public right to or enjoyment of a public property or natural resources normally available to the public.
3. Damages for personal injuries are recoverable in private nuisance but in public nuisance, it may not be so.

The court in deciding a case of nuisance would take into account:

a. The general benefit of the public.
b. The contemporary interference which is likely to be nuisance in the nuisance created.
c. The Nature of the locality where the act complained of occurred.
d. If the tenant or owner of the property is liable for the nuisance created.

The remedies available for one who complains of nuisance are damages, an injunction to restrain further nuisance and abatement. The defendant may plead contributory negligence where the nuisance is based on the defendant's negligent conduct and not his intentional conduct. The defense of contributory negligence does not totally absolve the defendant but rather reduces the quantum of damages or compensation awarded against the defendant. *Volenti non fit Injuria* may also be a defense where the defendant can prove that he acted to avoid an imminent harm to himself though, it unavoidably caused

damage to the plaintiff. The defendant may plead "act of stranger" where he could not have noticed the nuisance or taken steps to abate it. An actor in nuisance may survive the original plaintiff.

6.2.1 Res Ipsa Loquitur

Where damage results from injury caused to another in such a manner that the person injured is unable to show how the injury arose, the principle of *res-Ipsa Loquitor* would apply. The doctrine literally means the thing speak for itself. The most well-known definition of res-Ipsa loquitur was propounded by Erk C.J in *Scott v London and St. Katherines Docks Co.* where the thing is shown to be under the management of the defendant or his servants and the accidents is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of explanation by the defendants, that the accident arose from want or case.[28] In such situation, it is sufficient for the victim to show that the injury could not have occurred unless for want of care. The doctrine is frequently invoked in the Nigerian courts. The principle is applicable to action founded in negligence where no proof of such negligence is required beyond the accident, which is such as necessarily to involve negligence. In *SPDC v Anaro*, the court of appeal invoked the maxim of res-ipsa loquitur and the defendants were held liable to compensate the plaintiff over the spillage that destroyed his farmland.[29] The onus rest on the defendant to show that the injury was not as a result of want of care on his part. Reliance on the principle amounts to a confession by the plaintiff that he has no direct or affirmative evidence of the negligence complained of against the defendant but that the surrounding circumstances established such negligence. A plaintiff who relies on the doctrine of res-Ipsa Loquitur must satisfy two conditions to succeed.

1. The thing that inflicted the damage was under the sole control and management of the defendant or someone of whom he is responsible or over whom he has the right of control.
2. The occurrence is such that would not have happened without- negligence.

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28 *Scott v. London and St. Katherines Docks Co. (1865) 3 Hurl. & C. 596; 159 E.R. 665 (Exch. Ch.) — foundational negligence case on res ipsa loquitur.*

29 *SPDC v Anaro* (2015) 16 NWLR (Pt.1485) 171.

In *Allar Iron v shell-BP Development Company (Nig) Ltd*, the plaintiffs had brought an action in negligence and had relied on the doctrine of res-ipsa-loquitur.[30] The learned trial Judge found for the plaintiffs and said in the instant case that the oil installations were under the management of the defendants and there is no explanation from the defendants as to what caused the spillage, and it cannot be said that the facts are sufficiently known to remove the issue involved from the provenience of the doctrine of res-ipsa loquitur. An action could also be brought under trespass to land. Trespass to land called *trespass quare cause fregit* is committed when the defendant without lawful justification.

1. Enters into a land in the possession of the plaintiff or
2. Remains on such lands or
3. Directly places or projects any material object upon such land.

In essence the tort of trespass requires that the defendants conduct should be intentional rather than careless or unreasonable. For an action in trespass to succeed, the damage must be a direct, rather than indirect consequence of the defendant's activities. By this, the tort or trespass is of limited value to victims of environmental pollution**.**

6.3 *Legal Framework on the Environment on Oil Pollution*

Following the discovery of Crude oil in commercial quantities at Oloibiri in Rivers State in 1957, the first export of Nigeria crude oil in 1958 and Nigerian independence in 1960, the development of legislation for environmental protection gained impetus. Nigeria is one of the countries whose government has over the years taken bold steps in fashioning out legislation that are aimed to checkmate cases of environmental degradation especially in the oil industry. Environmental laws which regulate the oil industry include the Criminal Code, Petroleum Industry Act (PIA) 2021, Environmental Impact Assessment (EIA), Oil Pipelines Act, Oil in Navigable waters Act 1968, Gas Flaring, Venting and Methane Emissions (Prevention of Waste Regulations 2023, Nigerian Upstream Petroleum Environmental Remediation Regulation, 2024, and National Oil Spill Detection Response Agency, (NOSDRA) Act. The Statues have provision designed to reduce the incidence of oil pollution in

[30] *Allar Iron v. shell-BP Development Company (Nig) Ltd*, Unreported (Warri High Court, Suit No. W/89/71, 26 Nov. 1973).

the country. The legislation served as an effective instrument for environment protection, planning, pollution, prevention and control. Likewise, there are various Treaties and Convention dealing with the environment to which Nigeria is a signatory.

6.4 *Criminal Liability for Damages Caused by Oil Exploration/Pollution*

The cumulative effect of pollution from the various sources on the environment has contributed a grave danger to all natural resources both flora, fauna and human beings. This has also hindered marine activities particularly fishing. The dangers have prompted varying responses in different areas such as environmentalists, polluters and government. The responses of the government towards this have taken the form of legal regulation and control though, mainly civil but increasingly criminal law. Criminal liability for damages Caused by oil pollution has until recently been governed by the general provisions relating to common Nuisance, fouling water, and noxious act under the criminal code. The existing Lacunae in Nigeria criminal law as a result in oil pollution is a fairly recent development. Legislations from 1960's to date have been geared towards penalizing breaches of environmental law. The most comprehensive legislation on oil pollution is oil in Navigable water Act 1968.

7. Enforcement of Legal Remedies and Control Measures

The increasing environmental pollution such as that of oil pollution in Nigeria have led to the enactment of several laws and regulations both internationally and regionally. The adverse effects of oil pollution are evident on the health, agriculture, fisheries, lands amongst others of both the oil producing states and the neighboring states at large.

The provisions of some enactments have facilitated the environmental hazards such as oil pipeline license which enables the holder of the license to use the land within the licensed area deemed fit. The incidents of oil or gas pollution are not well documented in Nigeria for various reasons such as lack of effective reporting, surveillance and reluctant of oil companies in reporting such indents. Where reports documentations are made, they may not be reliable reports and documentation, which are usually collected and produced by the oil companies because in most cases the oil producing communities are not sufficiently organized financially or knowledgeable enough to secure the

services of environmental experts to assess and value the impact of the petroleum damage.

Additionally, the involvement of the oil industries in the regulatory system and the main government agency stands as a major flaw in the regulatory system in Nigeria. As far as Amnesty International has discovered that, companies often have significant control over the process, and the regulatory role has frequently been limited to as sensing data presented by companies rather than their independent investigation of the oil-impacted sites and analysis. No mechanism for communities to request an assessment of a site appears to have existed, and until recently there was no systematic verification of the data supplied by companies.

However, since 2007 the National oil Spill Detection and Response Agency (NOSDRA) have been visiting sites that companies need remediation to review the status of the sites. When oil pollution occurs, those whose property and lives are affected are entitled to compensation from the polluter. The oil industry response to pollution has its focus on oil spills. There are two distinct Pathways for compensation, one judicial and one non-judicial. The non-judicial system involves the agreement of compensation amounts between affected communities and or individual and the companies, without any formal court action being involved. The process is used primarily in the case of oil spills that are based largely on the provisions of the petroleum Act, the oil pipeline Act and on part vi of EGASPIN. A compensation system that does not require people to go to court can have distinct advantages, especially for the poor.

The scope of what can be covered by compensation and the amounts of money paid under the non-judicial process are also causes for concern. For example, in the Niger Delta, compensation for oil pollution has generally been narrowly prescribed primarily in terms of buildings, crops, or profitable trees, loss of fishing rights and loss of values of land.

Meanwhile, the compensation guidance does not address a long- term damages or injury to health. In Nigeria the approach to compensation by the oil industry is based on government guidance that specifies the items for which compensation will be paid, as well as standard amount. In effect the

polluter plays a significant role in setting the terms of compensation. The official notes notwithstanding, compensation often involves negotiation of a "package" that includes community development initiatives. This means the system is neither transparent nor fair, leaving people to obtain what they can by negotiation.

Also, compensation system places women at a particular disadvantage. Most "Negotiations" are carried out by chiefs and youths, who are almost always male, even when women's activities in agriculture and fisheries are affected by oil industry damage. According to women's rights Activist Alice Ukoko, the government and oil companies continue to refuse to pay compensation or, indeed dishes the issue with grass roots women of the Niger Delta as stakeholders in the affairs of the Niger Delta.

The informal compensation system lacks transparency. The amount paid are not made public and it is not clear to whom compensation is paid, an internal SPDC report in 2003 noted: "There is no transparency about (a) to whom the company pays compensation (b) The basis on which the amount is calculated and (c) how individual or communal compensation is divided. Many damages are either inadequately covered or not covered at all by the non-judicial system. Damage to moving water bodies, such as rivers and streams, is not covered by standard.[31] Compensation calculations. Compensation is not paid for damage to many important communal natural resources, despite the fact that many communities have significant dependence on wild forest products and shell fish for food and livelihood. Compensation is not paid for damage to health, because the oil industry does not look at how pollution affect health.

8. Recommendations and Conclusion

Nigerian environmental statutes should be amended to explicitly recognize the right of host communities to participate in environmental decision-making, monitoring, and remediation processes.[32]Expansion of Locus Standi for Environmental Claims Courts should continue the progressive trend of relaxing locus standi requirements to allow community groups, traditional institutions, and NGOs to institute actions on behalf of affected populations.

31 Internal SPDC report (2003).

32 Environmental Impact Assessment Act, Cap E12 LFN 2004.

Also, oil spill clean-up, compensation assessment, and remediation exercises should statutorily require community representatives as members of joint investigation and clean-up teams. This will curb manipulation of spill data and exclusion of victims.[33] Furthermore, community-based mediation and arbitration mechanisms, supported by legal backing, should complement formal litigation. Transparency is equally recommended because it enhances community vigilance, reduces misinformation, and strengthens trust between regulators and citizens.

In conclusion, community-driven environmental justice provides a powerful pathway for addressing Nigeria's complex pollution challenges. Although the legal and institutional frameworks recognize the importance of community participation, substantial implementation gaps persist. When local communities are empowered, access to environmental information is improved, and participatory structures are strengthened, environmental governance becomes more transparent and equitable. The world is much more aware of the risks posed by pollutions on our lives. Many Nations, including Nigeria, have gone ahead to promulgate effective legal regimes on the terms of laws and regulation to control and reduce environmental menace. Also, it has been seen that some legislation, especially (NESREA) Act 2007, deals generally with the prevention and control of pollution except in the oil and gas sector.

Moreover, as long as impunity for abuses of the environment and human right remain entrenched, the poverty and conflict that would be scarred by the affected individual or communities will be enormous. This study concludes that community involvement is indispensable for effective pollution mitigation and sustainable environmental outcomes. Strengthening participatory frameworks, promoting access to justice, and fostering collaborative governance are essential to achieving environmental justice in Nigeria.

33 *Shell Petroleum Development Co. Ltd v Tiebo VII (1996) 4 NWLR (Pt. 445) 657.*