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ARTICLE

JUDICIAL AND REGULATORY RESPONSES TO OIL SPILL-INDUCED FOOD INSECURITY IN NIGERIA

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Abstract

This article critically examines the nexus between oil spill-induced environmental degradation and food insecurity in Nigeria, with particular focus on the oil-rich Niger Delta region. It highlights how crude oil exploration and production have severely polluted land and water resources, thereby undermining agricultural productivity, fishing livelihoods, and access to safe food. The paper assesses the effectiveness of Nigeria's legal and regulatory responses, including the roles of agencies such as NOSDRA and NESREA, as well as relevant laws like the Petroleum Act, the National Environmental Standards and Regulations Enforcement Agency Act, and the Petroleum Industry Act (PIA) 2021. It further analyses judicial interventions in oil spill litigation, drawing attention to the limited enforcement of environmental remediation and the systemic challenges posed by corporate influence and state dependence on oil revenue. While the article adopts a doctrinal approach, it argues for stronger regulatory enforcement, constitutional recognition of the right to food, and judicial courage in addressing oil-related environmental harm. The paper concludes that only a rights-based and integrated legal approach can mitigate oil pollution and advance food security in affected communities.

Keywords:Oil spills, food security, environmental law, petroleum regulation, judicial response, Nigeria

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1.0Introduction

It is an incontrovertible fact that the world we live in today is vastly different from ancient times when people coexisted harmoniously with their natural 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 Petroleum industry, under the guise of development and energy exploration.[2]

In Nigeria, crude oil exploration dates back 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] By 1961, several other multinational oil companies had established operations in the region, both onshore and offshore. 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.

Oil spillage stands out as one of the most significant contributors to both water and land pollution in the Niger Delta and other oil-producing regions. As Nigeria's primary oil-producing area, the Niger Delta witnesses the extraction of large quantities of crude oil daily, with severe

[1] A Uchegbu, 'The Legal Regulation of Environmental Protection and Enforcement in Nigeria' (1988-89) *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 15/1/2026.

[4] ibid.

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 ecosystems.[7] Oil spills occur throughout different phases of petroleum handling—from exploration to production, refining, distribution, and marketing. However, an estimated 96% of these spills are linked to the exploration and production phases, which means they predominantly affect the oil-producing communities.[8]

An oil spill refers to the discharge of liquid petroleum hydrocarbons into the environment, whether in oceans, coastal waters, rivers, or on land.[9] 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.[10] 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.[11] It encompasses food availability and accessibility but, more importantly, food affordability.[12]

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

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

[6] ibid.

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

[8]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.

[9]S Singh, D Thattai, S Rangarajan, and D Jaishree, 2019, June. 'Oil spill risk assessment study for Andaman and Nicobar Islands, India' *AIP Conference Proceedings* (2019) Vol. 2112, No. 1, p. 020026. AIP Publishing LLC. Available at https://pubs.aip.org/aip/acp/article/2112/1/020026/1024287/Oil-spill-risk-assessment-study-for-Andaman-and accessed 20/1/26

[10] 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.> accessed 12/1/2025

[11] FS Idachaba, *Strategic and Policies for Food Security and Economic Development in Nigeria.* 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) 290-312

[12] ibid.

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 exacerbating 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; but these laws have not adequately ensured food security especially as it is affected by oil spills. This work will analyse the existing laws and advocate for their review to fight food insecurity caused by oil spillage.

2. Concept of Oil Spill and Food Security

Oil spill is the discharge of liquid petroleum hydrocarbons into the environment. This term encompasses spills that take place in oceans, coastal waters, rivers, or on land.[13] While oil spills can happen at different phases of petroleum handling— exploration, production, to refining, supply, and marketing—at least 96 percent of these spills are linked to the exploration and production phases, making them predominantly localized in oil-producing areas.[14]

Food security refers to the availability, accessibility, acceptability, and affordability of food.[15] 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.[16] 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.[17] 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.[18] Food

[13]Singh *et. al* (n.9)
[14]Ejumudo and Nwador, (n.8) 35.
[15]OS Enilolobo, TI Nnoli, SO Olowo, TA Aderemi, AO Adewole, VO Olapade, JF Esedeke, Determinants of Food Security, *ACTA UNIVERSITATIS DANUBIUS ECONOMICA (AUDOE)*, (2022) 18 (3) 193-209
[16] Clover, J. (2003). *Food Security in Sub-Saharan Africa*. Available at: https://www.researchgate.net/publication/272123749. In O. S. Enilolobo, *et. al* ibid
[17] FAO. (2007). *State of Food and Agriculture (SOFA). Livestock in the balance*. FAO, Rome, Italy.
[18]Abdul Munaf Mohamed Irfeey, Mohamed M. M. Najim, Bader Alhafi Alotaibi and Abou Traore Groundwater Pollution Impact on Food Security, *Journal of Sustainability*, (2023) 15 (4202) 2. <https://doi.org/10.3390/su15054202.> Accessed 31/1/2025

security is essential for human survival, contributing to good health, labour productivity, and economic growth.[19] Its absence can lead to hunger, malnutrition, political instability, and an overreliance on food imports, negatively impacting a nation's economy.[20]

3. Causes of Oil Spill in Nigeria

It is reported that in Nigeria, fifty per cent of oil spillages are caused by corrosion, twenty-eight per cent (28%) by sabotage, and twenty-one per cent (21%) by oil production operations.[21] One per cent (1%) result from engineering drills, failure to effectively control oil wells, machinery breakdowns, and insufficient care in loading and unloading oil vessels.[22] 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.[23] Sabotage is another significant cause of oil spills in Nigeria. Some Nigerian citizens, working hand in hand with nationals of other nations, take part in oil bunkering, deliberately damaging and destroying oil pipelines in an attempt 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.[24] 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.[25]

4 Impact of oil spill 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

[19] PO Agbola, Factors influencing food security among small farmers in Nigeria. *African Journal of Agricultural Research,* (2014) 9(27) 2104-2110.
[20] K Havas, & M Salman, Food security: its components and challenges. *Int. J. Food Safety, Nutrition and Public Health,*(2011) 4(1) 25
[21] PC Nwilo and OT Badejo, *Impact of Oil Spill along the Nigerian Coast, Contaminants, Soil sediments and Water* (Kluver Publishers, the Netherlands 2001) 44-49
[22] ibid.
[23] ibid.
[24] ibid.
[25] 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

significant form of environmental pollution, resulting in soil degradation, severe health challenges, the destruction of mangrove forests, and the extermination of aquatic life,[26] 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.[27] 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.[28] 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.[29]

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 leads to emulsified water, disrupts aquatic ecosystems.[30] 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.[31] 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.[32]

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.[33] In aquatic environments, an oil film floating on the water's surface obstructs natural aeration, causing the death of freshwater and marine organisms.[34] On land, oil spills

[26] ibid.
[27] L. Ayonote, Blood spillage. *TELL*, December 25, 2005, *52*, 20-22.
[28] ibid.
[29] ibid.
[30] EA Akpofure, ML Efere and P Ayawei, The Adverse Effects of Crude Oil Spills in the Niger Delta. Urhobo Historical Society InNwilo& Olusegun (*n. 21*) ibid.
[31]CO Opukri and Ibaba Samuel 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.
[32] DS Olawuyi, Legal and Sustainable Development Impacts of Major Oil Spills, *Consilience: The Journal of Sustainable Development* (2012) 9(1) 4.
[33] ibid.
[34] MK Ukoli, Environmental Factors in the Management of the Oil and Gas Industry in Nigeria. (2005).

impede vegetation growth and render soil infertile for extended periods, further intensifying food insecurity.[35] The contamination of marine habitats has significant implications for human health, as the consumption of polluted seafood increases the risk of disease.[36]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.[37]

5. The Legal Framework Governing Oil Pollution and Food Security 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. She has also acceded to some treaties as well as local laws that guarantee food security. This section shall examine these laws and international treaties.

5.1 Laws Governing Oil Pollution

5.1.1 International Convention on Oil Pollution Preparedness Response and Co-operation, (OPRC, 90).

Nigeria has domesticated this convention through the National Oil Spill Detection and Response Agency Act (NOSDRA Act).[38] The Convention mandates that every vessel bearing the ensign of a contracting state must maintain an oil contamination emergency blueprint in accordance with the International Maritime Organization (IMO) rules. Similarly, offshore operators within the jurisdiction of a contracting state are required to implement an equivalent emergency plan that aligns with the National Oil Pollution Emergency Plans and is duly ratified by the required

www.cenbank.org In AA Kadafa, Environmental Impacts of Oil Exploration and Exploitation in the Niger Delta of Nigeria, *Global Journal of Science Frontier Research Environment & Earth Sciences*, (2012) 12 (13) 21.

[35] ibid.

[36] 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.

[37] ibid.

[38] AG Eze and TC Eze, International Law and the Prevention and Control of Oil and Gas Pollution, *Journal of Law, Policy and Globalisation,* (2015) Vol. 35 31.

authority. Additionally, offshore operators must report any discharge of oil to the relevant state authorities.[39] Upon receipt of such reports, the state party is obligated to evaluate the state of affairs, warn all states whose safety may be affected, in addition to providing further updates until remedial actions are completed or a coordinated response is agreed upon by the concerned states. In extreme cases, affected states may escalate reports directly to the IMO through established communication channels.[40]

Each state party to the convention is mandated to establish a National Contingency Plan for fighting oil contamination, while maintaining the smallest level of oil spill response tools, proportionate to the specific risks to which the state is exposed.[41] Furthermore, parties to the Convention are obliged to render mutual assistance in oil spill response efforts, with costs to be allocated in accordance with the rules annexed to the Convention.[42] To facilitate such cooperation, contracting states must establish legal and administrative frameworks that enable the swift mobilisation of response equipment and personnel, including aircraft, for oil spill incidents.[43] Moreover, parties are required to engage in continuous evaluation within the IMO framework to assess the effectiveness of the Convention in ensuring international cooperation and assistance in oil spill response operations.[44]

The Convention imposes a mandatory obligation on contracting states to develop a National Oil Spill Contingency Plan, either through executive policy or legislative enactment. In Nigeria, this obligation is fulfilled through the NOSDRA Act, which provides for the establishment of a National Oil Spill Contingency Plan. Additionally, the Act mandates the adoption of installation-based oil spill contingency plans. The Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN), issued by the Department of Petroleum Resources (DPR), further stipulate the requirement for plant-based oil spill contingency plans for oil operators.[45]

A significant limitation of the Convention is its lack of an independent financial mechanism for reimbursing parties that provide assistance in oil spill response efforts. Instead, it relies on the International Convention on Civil Liability for Oil pollution Damage and the International

[39] Article 4 International Convention on Oil Pollution Preparedness Response and Co-operation (OPRC 1990).
[40] Article 5(2) and (3) ibid.
[41] Article 6 ibid.
[42] Article 7 ibid.
[43] Article 7(3) (b) ibid.
[44] Article 8 ibid.
[45] AG Eze and TC Eze, *(*n. 38*)* 28.

Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (also known as the Fund Convention), both of which are limited in scope to ship-sourced oil pollution. In contrast, the OPRC Convention encompasses all types of oil spill incidents, regardless of their origin. Consequently, expenditures incurred in responding to non-ship-based oil spills may not be eligible for reimbursement under the existing liability and fund conventions.[46]

It is recommended that the OPRC Convention create a separate fund to address the reimbursement of costs incurred by contracting states that assist others in oil spill response operations. Such a mechanism would enhance the effectiveness of international cooperation under the Convention by ensuring adequate financial support for oil spill response activities beyond tanker-related incidents.[47]

5.1.2 Petroleum Act Chapter P10 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.[48] Additionally, the Minister is empowered to promulgate regulations concerning pollution prevention and safety measures in oil exploration and production activities.[49]

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.[50]

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

[46] ibid.
[47] Ibid.
[48] Section 8(1)(d) and (g) of the Petroleum Act, CAP P10 LFN 2004.
[49] Section 9 ibid.
[50] Regulation 36.

a) Manage the flow and prevent the unnecessary loss or waste of petroleum extracted from the designated area.
b) Protect adjoining petroleum-bearing strata from damage.
c) Prevent water infiltration into petroleum-bearing strata through boreholes and wells, except in cases of secondary recovery authorized by the Director of Petroleum Resources.
d) Prohibit the discharge of petroleum into any water body, including wells, springs, streams, rivers, lakes, reservoirs, estuaries, or harbors.
e) Reduce damage to the surface of the designated area, as well as to trees, crops, buildings, structures, and other properties within the affected zone.[51]

To ensure compliance with these environmental safeguards, the Minister is vested with the power to withdraw oil prospecting licenses or oil mining leases where the licensee or lessee fails to keep to the requirements of the Petroleum Act with its accompanying rules.[52] Contamination of inland water bodies such as rivers, watercourses, 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*,[53] 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

[51] Ibid.
[52] Regulation 25 of Schedule one to the Petroleum Act, 2004.
[53](1994) 6 NWLR (Part 350) 258. See also *S.P.D.C. V Adamkue* (2003) 11 N.W.L.R. (Part 832) 533.

protections, including safeguards for lands held to be sacred,[54] measures to prevent pollution of watercourses,[55] and regulations on the abandonment and decommissioning of wells.[56] Additionally, the regulations mandate that licensees and lessees maintain accurate records of the quantity of crude oil extracted, stored, and transported.[57] 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.

Another significant limitation of the regulations is the confidentiality requirement imposed on licensees and lessees regarding the information they provide.[58] 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.

5.1.3 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:

[54] Regulation 17 of Petroleum (Drilling andProduction) Regulations 1969.
[55] Regulation 25 ibid.
[56] Regulation 36 ibid.
[57] Regulation 53 ibid.
[58] Regulation 58 ibid.

(i) Land occupied by a cemetery;

(ii) Land containing a grave, tree, or object deemed sacred or venerated; and

(iii) Land under actual cultivation.

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 or not 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 as a result of pipeline operations that have not been adequately remedied.[59] 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.

5.1.4 Oil in Navigable Waters Act Chapter 06 LFN 2004

The Act was passed into law 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 earliest legislation in Nigeria that explicitly and exclusively addresses industrial waste caused by oil production.[60] Under the Act, the release of oil into a proscribed marine zone constitutes an offence and the owner or master of any ship liable for such release is considered guilty of a crime.[61] Similarly, where oil or any mix encompassing oil is released into the waterways 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.[62]

A notable weakness of the Act, however, is that the penalties prescribed for offences under its provisions are grossly inadequate.[63] 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

[59] Section 11(5) (a) of the Oil Pipelines Act.
[60] C. C. Nwufo, Legal Framework for the Regulation of Waste in Nigeria, (April 2010) 10(2) *African Research Review*, 499.
[61] Section 1 Oil in Navigable Waters Act, CAP 06 LFN 2004.
[62] Section 3 Ibid.
[63] Section 6 Ibid.

pollution and ensuring greater compliance with environmental protection standards.

5.1.5 National Oil Spills Detection and Response Agency (NOSDRA) Act 2006 (Amended in 2018)

The Agency was created by Act No. 15 of 2006 as a strategic reaction by the Federal Government to address the persistent environmental destruction of Nigeria's littoral biomes, particularly in the oil-producing Niger Delta area. By law, NOSDRA is responsible for overseeing oil spill response efforts and ensuring the enforcement of the National Oil Spill Contingency Plan (NOSCP) in line with the provisions of the International Convention on Oil Pollution Preparedness, Response, and Cooperation (OPRC) 1990, to which Nigeria is a signatory.[64] The NOSCP serves as a design for oil spill control, reclamation, and remediation/restoration. Initially drawn up in 1981, it has undergone reviews in 1997, 2000, and 2006 to reflect emerging challenges and international best practices.

NOSDRA is responsible for overseeing and coordinating prompt, efficient, and suitable actions in response to oil spills, protecting threatened environments, and ensuring the clean-up of affected sites to the best practical extent.[65] NOSDRA law further provides for the creation 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 doesn't launch independent spillage inquiries and is often reliant on the polluting oil corporation for logistics, including transportation to spill sites and technical data.[66] Furthermore, joint investigation processes are heavily influenced by the oil companies, which determine the timing of site visits, provide transportation, and control technical assessments.[67] This imbalance in power creates a conflict of interest, as the polluter has significant influence over the investigative process and information flow.

[64] Nigeria's Rio +20 report (2012).
[65] Section 5 of the NOSDRA Act 2006.
[66] Ayobami Olaniyan, 'The Multi-Agency Response Approach ToThe Management Of Oil Spill Incidents: Legal Framework For Effective Implementation In Nigeria', *Afe Babalola University Journal of Sustainable Development, Law*, (2015) 6(1) 114.
[67] ibid.

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.[68] 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.

5.1.6 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 authorized to enforce environmental laws, regulations, and standards. NESREA is tasked with preventing environmental pollution and degradation by individuals, industries, and organizations, advocating for biodiversity conservation, and safeguarding the sustainable use of Nigeria's natural resources.[69] Additionally, the agency is tasked with coordinating and liaising with appropriate stakeholders, both inside and outside Nigeria, on issues related to the enforcement of environmental policies and guidelines.

NESREA has extensive authority to ensure compliance with Nigeria's environmental laws, policies, guidelines, standards, and regulations. It is also tasked with overseeing the implementation of international environmental agreements, protocols, conventions, and treaties that Nigeria has ratified.[70] One of its key regulatory functions is the ban of the discharge of lethal substances in unsafe quantities into the air, land, or waters of Nigeria, including the contiguous shoreline, unless such discharge is authorized by law.[71] The Act prescribes penalties for violations. Individual offenders may be fined up to N1,000,000 or imprisoned for up to five years.[72] Corporate entities are liable to a fine of up to N1,000,000, with an additional penalty of

[68] Ayobami Olaniyan, 'Imposing Liability for Oil Spill Clean-Ups in Nigeria: An Examination of the Role of the Polluter-Pays Principle', (2015) 40 *Journal of Law, Policy and Globalization* (2015) 40 84.
[69] Section 2 NESREA Act
[70] Section 7(c) ibid.
[71] Section 27 (1) ibid.
[72] Section 27 (2) ibid.

N50,000 for each day the offence continues.[73] 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.[74] Additionally, obstructing a NESREA officer in the performance of official duties carries penalties, including a fine of N200,000 or imprisonment 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.[75]

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.[76] While NESREA retains the authority to enforce compliance with environmental standards, regulations on water quality, pollution abatement, and environmental health,[77] 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.[78] 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."[79] This cap placed on NESREA's authority over the petroleum sector by the government has effectively

[73] Section 27 (3) ibid.
[74] Section 27 (4) ibid.
[75] Section 31. ibid.
[76] A Tanko, *An Analysis of the Efficacy of Fiscal Laws relating to Petroleum Operations in Nigeria*, (LLM Thesis Faculty of Law, Ahmadu Bello University, Zaria, Nigeria, 2011) 120.
[77] Section 7(a), (b), (c), (d), (e), (f),(i) and (m) of the NESREA Act.
[78] A Tanko (n.76) ibid.
[79] Amnesty International Report, June 2009, p. 43.

weakened its ability to hold oil companies accountable for environmental degradation. Given that the oil and gas industry is one of the largest polluters in Nigeria, this exclusion raises serious concerns about regulatory effectiveness, environmental justice, and the protection of communities affected by oil exploration and production activities. Strengthening regulatory oversight would not only enhance environmental protection but also uphold human rights and promote sustainable development in Nigeria.

5.1.7 The Petroleum Industry Act (PIA) 2021

Nigeria has evolved in its regulation of environmental impact of oil production activities since the enactment of the Petroleum Act in 1969. However, the PIA represents a holistic legislation that provides for the rights, responsibilities and duties of the various stakeholders in the oil and gas industry while also making express provisions for fiscal responsibilities in safeguarding the environment.

The Petroleum Industry Act 2021 was assented and signed into law by the President of the Federal Republic of Nigeria on August 16th, 2021 to repeal the extant Petroleum Act 2004. It has created an array of provisions and innovations that will affect the private, public sector and stakeholders in the oil and gas industry.[80] The Act is made up of 5 Chapters, 319 Sections, and 8 Schedules. The Petroleum Industry Act was enacted to provide for the legal, governance, the regulatory and fiscal framework for the Nigerian Petroleum Industry, the establishment, and development of host communities and other related matters in the upstream, midstream and downstream sectors of the petroleum industry.[81]

Particularly relevant is Chapter 3 of the Act, which establishes the Host Communities Development Trust.[82] This framework seeks to ensure the participation of oil-producing communities in managing environmental and social impacts by mandating that oil companies contribute a percentage of their operating expenditure to the Trust.[83] However, this provision prioritises corporate social responsibility rather than imposing strict environmental accountability or liability for pollution.

Whereas the responsibilities for oil spill recovery, clean up and remediation belong to the

[80]Resolution Law Firm, Nigeria: Overview Of The New Petroleum Industry Act 2021, <https://www.mondaq.com/nigeria/oil-gas-electricity/1113104/overview-of-the-new-petroleum-industry-act-2021> accessed 20th December 2022.
[81] Explanatory Memorandum of the Petroleum Industry Act 2021.
[82] Section 234-237 Ibid.
[83] Section 239 Ibid.

operators of licenses and leases under the National Oil Spill Detection and Response Agency (NOSDRA) Act and its Oil Spill Recovery, Clean-up, Remediation and Damage Assessment Regulations, the PIA provides a more enforceable framework by creating not just administrative but also fiscal provisions. The Act creates the environmental remediation fund for the rehabilitation or management of negative environmental impacts arising from the operations of licenses and leases. The fund is financed by contributions charged as part of the conditions precedent to the grant of a license or lease.[84] The contribution to be paid is determined by the size of the operations and the level of environmental risk that may exist.[85] This fund is to be applied where a licensee or lessee fails to rehabilitate or manage any negative impact on the environment arising from its operations.[86]

Although the PIA recognises environmental sustainability as a guiding principle,[87] it does not create a robust standalone framework for environmental protection or remediation. Provisions on decommissioning, site restoration, and environmental management plans are vague and lack clear enforcement mechanisms or penalties. Furthermore, the PIA does not significantly enhance the powers of regulatory agencies like the National Oil Spill Detection and Response Agency (NOSDRA) or the National Environmental Standards and Regulations Enforcement Agency (NESREA), nor does it establish independent oversight bodies with the authority to enforce environmental compliance.

As of the time of writing, the PIA's impact on environmental protection and food security remains theoretical, as its implementation is still evolving. Judicial interpretation of its provisions is limited, and practical enforcement is yet to be tested. Thus, while the PIA marks a significant policy shift, it does not presently fill the regulatory and accountability gaps required to address the chronic oil spill-induced environmental degradation that underlies food insecurity in oil-producing regions.

5.2 The Legal Framework Governing Food Security in Nigeria

Nearly 60% of annual deaths worldwide—around 36 million—are directly or indirectly caused

[84] Section 103(1) ibid.
[85] Section 103(2) Ibid.
[86] Section 103(4) Ibid.
[87] Section 234(1)(a)-(d).

by hunger and nutritional deficiencies.[88] Over 840 million people globally suffer from malnourishment,[89] with more than 95% residing in developing countries.[90] Among them, 153 million are children under the age of five.[91] 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.'[92] 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 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."[93] This vision laid the groundwork for the Universal Declaration of Human Rights (UDHR), which formally acknowledged the right to food under international law.[94]

5.2.1 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 food[95] and the right to be free from hunger.[96] While the former is a relative standard, the latter is an absolute and fundamental right in both the ICCPR[97] and the ICESCR.[98]

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[88]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).

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

[90] Ibid.

[91] Ibid.

[92] J Gustavsson, *Global Food Losses and Food Waste: Extent, Causes and Prevention*, (FAO, Rome, 2011) 4.

[93]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.

[94] Ibid.

[95] ICESCR Art. 11.

[96] Article 11(2) ibid.

[97]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

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.[99] 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).[100] A state's failure to meet these obligations constitutes a violation unless it proves that resource constraints and unsuccessful international assistance requests hindered compliance.[101]

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.[102] 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.[103]

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.

5.2.2 **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

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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.

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

[99]ibid.

[100] CESCR General Comment No.12, para. 15.

[101] General Comment No.12, para. 17.

[102] 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.

[103] 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.

accordance with Article 49.[104] The UNCRC was ratified by Nigeria in 1991.[105] 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.[106] 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.

5.2.3 Food Conferences

In 1974, the World Food Conference[107] 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."[108] 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."[109] 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,[110] expressing anger

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[104]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.

[105] UNICEF NIGERIA-FACT SHEET', <www.unicef.org/nigeria/childs_rights_legislation_in_nigeria.pdf.> Accessed 3rd March 2021.

[106] UNICEF:20 years of the CRC. <http://www.unicef.org/rightsie/237.htm>. Accessed 7/3/21.

[107] 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)

[108] 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.

[109]YigzawDestaw, 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> accessed 13th March 2025

[110] 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,

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.[111] Despite pledges to halve global hunger within two decades, progress has been minimal. As 2015 (which was the target 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.

5.2.4 The Constitution of the Federal Republic of Nigeria, (as amended)

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*.[112] 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

WTO, United Nations Population (UNFPA), United Nations Environment Programme (UNEP), United Nations Population Fund (UNFPA), World Metrological Organization (WMO), United Nations Industrial Development Organization (UNIDO), International Atomic Energy Agency (IAEA), and others attended the 1996 World Food Summit.

[111] 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.

[112] *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.

Agricultural Development Projects, among others.[113] 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 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.[114] 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.[115] 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.

6. The Impact of the Judiciary on Oil Spillage and food Security

The judiciary plays a crucial role in environmental protection through its power of adjudication. Courts can prevent environmental pollution before it occurs through abatement, issue final judgments against violations, or grant injunctions prohibiting harmful activities. In some cases, courts also award damages. Judicial intervention in pollution-related matters in Nigeria can be considered from the common law perspective, particularly through the torts of nuisance and negligence. An aggrieved person can seek damages for injuries suffered and obtain injunctions to prevent further harm by filing a court action based on these torts.

In the oil sector, where environmental degradation is most severe, the influence of oil companies and the judiciary's paternalistic approach towards them have significantly weakened the enforcement of environmental laws.[116] The reluctance of Nigerian courts to issue orders

[113]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) at31.

[114]Similoluwa Ayoola, Impacts of the Climate and Health Crises on Food Security: Towards Ensuring a Rights-Based Approach to Food Security in Nigeria (LLM Thesis, McGill University, Montreal, April 2021) 73.

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

[116] MA Ajomo, 'An Examination of Federal Environmental Laws in Nigeria', in M.A Ajomo and O. Adewale (eds), Environmental law and Sustainable Development in Nigeria (Nigerian Institute of Advanced Legal

compelling oil companies to halt environmentally harmful activities is a major concern.[117] Judges often prioritize economic considerations, such as potential revenue loss and foreign investment, over environmental protection.[118] This stance stems largely from Nigeria's economic dependence on crude oil revenue.

Since the discovery of petroleum in Nigeria, numerous cases have been filed in court alleging pollution, loss of income, destruction of crops, food insecurity, property damage, and water contamination leading to health hazards. Cases such as *SPDC v. Tiebo VII*,[119]*SPDC v. Isaiah*,[120]*Seismograph Services v. Mark*,[121]*Ogiale v. SPDC*,[122] and *SPDC v. Ambah*[123] involved plaintiffs seeking compensation for oil spillage-related damages, including loss of livelihood from farming and fishing activities, contamination of drinking water, and environmental destruction. However, in many instances, courts refrained from ordering remediation of damaged land and water resources. A different decision was given in *SPDC v. Farah*,[124] where the plaintiffs not only sought compensation but also requested an order for the rehabilitation of their damaged land. Unlike previous cases where conflicting expert testimony complicated decisions, the court took an innovative approach by appointing independent experts to determine whether the affected land had been restored to its pre-impact condition. This case set a precedent, marking the first instance where both compensation and environmental remediation were granted.

Victims of environmental damage from oil operations can also seek redress under the Rule in *Rylands v. Fletcher*, which holds that a person who introduces a potentially harmful substance onto their land is strictly liable if it escapes and causes damage. This principle applies to substances such as crude oil, gas, chemicals, and other hazardous materials. Key conditions for

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Studies, 1994. In Oluwatoyin Adejonwo-Osho, "The Evolution of Human Rights Approaches to Environmental Protection in Nigeria" Available at < www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CCsQFjAB&url=http%3A%2F%2Fwww.iucnael.org%2Fen%2Fdocuments%2Fdoc_download%2F70-adejonwo-osho-the-evolution-of-human-rights-approaches-to-environmental-protection-in-nigeria-.html&ei=hraCT-zpE8GcOveF6ewG&usg=AFQjCNGlif407uqs1m0mi02MScwdZEUKcA&sig2=MhonQaop1X0TwdXk3s_mWA>11 [Adejonwo-Osho]. Accessed 3rd February 2025.

[117] K Ebeku, Judicial Attitudes to Redress for Oil Related Environmental Damage in Nigeria, *RECIEL*, (2003) 12 (2) 207

[118] ibid.

[119] [1996] 4 N.W.L.R (Pt 445) 657.

[120] [1997] 6 N.W.L.R (Pt 508) 236.

[121] [1993] 7 N.W.L.R (Pt 304) 203.

[122] [1997] 1 N.W.L.R (Pt 480) 148.

[123] [1999] 3 NWLR (Pt 593) 1.

[124] [1995] 3 NWLR (Pt 382) 148.

liability under this rule include:

1. The defendant must own or control the land where the harmful substance is kept.

2. The defendant must have introduced and stored a substance that is likely to cause harm if it escapes.

3. The use of the land must be non-natural, as seen in *Sam Ikpede v. Shell B.P. (Nig) Ltd,*[125] where laying pipelines through forests and swamps for crude oil transport was deemed non-natural.

4. There must be an actual escape of the substance to an area outside the defendant's control, as seen in *Umudge v. Shell B.P. Nig. Ltd,*[126] where crude oil escaped from the defendant's pit and damaged the plaintiff's fish pond and lake.

Despite these legal avenues, plaintiffs in oil pollution cases often struggle to meet the evidentiary burden required to prove negligence. Many affected individuals lack the technical knowledge to demonstrate how oil companies' activities caused environmental damage. This can be seen in cases like *Anthony Atubie v. Shell B.P. Development Co. of Nigeria Ltd*.,[127] where the claim failed due to insufficient evidence of negligence. Similarly, in *Chinda v. Shell B.P. Development Co. of Nigeria Ltd*.,[128] a claim for damages resulting from gas flaring was dismissed for lack of evidence. However, in *Shell Petroleum Development Co. Nigeria Ltd v. Ambah,*[129] the Supreme Court upheld a claim for damages after an oil company's dredging operations covered the plaintiffs' fish ponds and lakes with mud, depriving them of their livelihood. The court awarded compensation equivalent to the market value of the destroyed property. This decision was later reaffirmed in *Otoko v. SPDC*[130] and *Ogiale v. SPDC,*[131] reinforcing the right of victims to sue for damages under the common law of negligence. These cases illustrate that while victims of oil pollution in Nigeria have legal recourse, success depends on proving that the pollution resulted from the oil company's failure to adhere to best practices. Strengthening environmental litigation through better access to legal and scientific expertise is essential to ensuring that affected communities receive adequate redress.

In conclusion, the judiciary plays a critical role in environmental protection through its

[125] [1973] MWSJ 61.
[126](1975] 11 S.C. 155.
[127] (Unreported) UCH/48/73 of 12th November 1974.
[128](Unreported) 1974.
[129][1999] 3 N.W.L.R. (Part 593) 1.
[130][1990] 6 N.W.L.R. (Part 159) 693.
[131][1997] 1 N.W.L.R (Part 480) Page 148.

adjudicatory powers, particularly in addressing pollution and environmental degradation caused by oil exploration in Nigeria. While common law principles, such as the rule in *Rylands v. Fletcher*, nuisance and negligence provide avenues for victims to seek redress, judicial reluctance to impose stringent measures on oil companies has often hindered effective environmental justice. The economic reliance on crude oil revenue has further contributed to the judiciary's cautious approach in granting orders that could affect corporate interests. However, landmark cases such as *SPDC v. Farah* demonstrate a shift towards a more proactive stance, emphasizing the need for both compensation and environmental remediation. For meaningful progress, the judiciary must balance economic considerations with environmental sustainability, ensuring that oil companies are held accountable for the ecological and social consequences of their operations.

7. Conclusion and Recommendations

Oil spill-induced food insecurity in Nigeria, particularly in the Niger Delta region, underscores a troubling intersection between environmental degradation, weak governance, and human rights violations. Despite the existence of several domestic laws and international conventions aimed at curbing oil pollution and guaranteeing food security, enforcement has been largely ineffective. Regulatory bodies like NOSDRA and NESREA remain underfunded, underpowered, or constrained by jurisdictional limitations, leaving oil-producing communities exposed to repeated ecological harm. While the judiciary has occasionally provided some form of redress, a pattern of deference to economic interests and weak evidentiary standards continues to frustrate true environmental justice.

To redress the entrenched challenges posed by oil spills, there must be a deliberate commitment to strengthening enforcement institutions, depoliticizing regulatory agencies, and ensuring their operational independence and technical capacity. Regulatory frameworks should be harmonised, and overlapping or conflicting jurisdictional boundaries removed, especially between NOSDRA and NESREA. Nigeria should also domesticate key international treaties like the ICESCR to ensure justiciability and accountability in food rights litigation. Furthermore, the government must formally recognize the right to food as a justiciable human right in the Constitution to enable courts to uphold this right when threatened by environmental degradation. Oil companies must be compelled not only to pay compensation but to undertake meaningful environmental

remediation. The judiciary must rise above economic pressures and exercise its powers with courage and consistency to uphold the environmental and food security rights of vulnerable communities. Only through such integrated and rights-based approaches can Nigeria move towards environmental sustainability, social equity, and national food security.