

**THE POLLUTER PAYS PRINCIPLE IN NIGERIAN LAW: AN ANALYSIS OF THE  
LEGAL REMEDIES AND RECOURSE FOR VICTIMS OF ENVIRONMENTAL  
DEGRADATION**

**SUBMITTED**

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**2020/LW/14935**

**TO**

**THE DEPARTMENT OF LAW, FACULTY OF LAW  
ALEX EKWUEME FEDERAL UNIVERSITY,  
NDUFU-ALIKE, IKWO, EBONYI STATE,  
FOR THE AWARD OF LL.B IN LAW**

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**SEPTEMBER, 2025**

## DECLARATION

I Ikenwafor Joshua U. hereby declare that this project titled “**THE POLLUTER PAYS PRINCIPLE IN NIGERIAN LAW: AN ANALYSIS OF THE LEGAL REMEDIES AND RECOURSE FOR VICTIMS OF ENVIRONMENTAL DEGRADATION**”, submitted to Faculty of Law, Alex Ekwueme Federal University Ndufu-Alike Ikwo, Ebonyi State is a record of an original work done by me under the guidance of my supervisor, Dr. Onyekachi Eni. This project work is submitted as a partial fulfillment of requirements for the award of the degree of Bachelor of Laws. The results embodied therein in this thesis has not been submitted to any other University or Institute for the award of any degree or diploma.

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SIGNATURE AND DATE

**CERTIFICATION**

This is to certify that this project titled **“THE POLLUTER PAYS PRINCIPLE IN NIGERIAN LAW: AN ANALYSIS OF THE LEGAL REMEDIES AND RECOURSE FOR VICTIMS OF ENVIRONMENTAL DEGRADATION ”** has been assessed and approved by the Undergraduate Studies Community of the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike Ikwo” as an original work carried out by Ikenwa for Joshua U., with registration number 2020/LW/1435 in the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike Ikwo, under the guidance and supervision of Dr. OnyekachiEni.

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## **DEDICATION**

This project is dedicated to my family and friends, whose unwavering support and enlightenment have been the cornerstone of my academic journey. Their belief in my abilities has inspired me to complete this work.

## **ACKNOWLEDGEMENTS**

I express my profound gratitude to Almighty God for the strength and wisdom to complete this project. My heartfelt appreciation goes to the Dean, Faculty of Law, Prof. E.A Udu, my supervisor, Dr. Onyekachi Eni, for his guidance, patience, and insightful feedback throughout this research. I am grateful to my parents, Mr. & Mrs. Ike-Nwafor and my siblings for their unconditional love and support. My thanks also extend to my lecturers at the Faculty of Law, for their knowledge and encouragement. Finally, I acknowledge my colleagues and friends who provided moral support and shared valuable insights during this academic journey.

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## **LIST OF ABBREVIATIONS**

PPP: Polluter Pays Principle

NESREA: National Environmental Standards and Regulations Enforcement Agency

NOSDRA: National Oil Spill Detection and Response Agency

EGASPIN: Environmental Guidelines and Standards for the Petroleum Industry in Nigeria

EIA: Environmental Impact Assessment

PIA: Petroleum Industry Act

NUPRC: Nigerian Upstream Petroleum Regulatory Commission

FEPA: Federal Environmental Protection Agency

SERAP: Socio-Economic Rights and Accountability Project

NDC: Nationally Determined Contribution

UNEP: United Nations Environment Programme

CJ: Chief Justice

NGO: Non-Governmental Organization

EJ: Environmental Justice

EU: European Union

EPR: Extended Producer Responsibility

DPR: Department of Petroleum Resources

LASEPA: Lagos State Environmental Protection Agency

## ABSTRACT

Recognizing the internationally acclaimed efficiency of the Polluter-Pays Principle (PPP) in achieving environmental protection and improvement, Nigeria has formally adopted this principle as a fundamental strategy for addressing environmental degradation and pollution. The essence of the PPP lies in assigning responsibility to polluters, requiring them to bear the financial costs associated with the remediation of the pollution they generate. This approach not only aims to internalize the external costs of environmental harm but also incentivizes polluters to adopt cleaner technologies and preventive measures, thereby fostering sustainable development. Central to this principle is the understanding that environmental deterioration represents a legacy debt owed to future generations, necessitating immediate and effective action to prevent irreparable damage and preserve natural resources for posterity. This study critically examines the efficacy of the Polluter-Pays Principle within the framework of Nigerian environmental law, with a particular focus on the availability and effectiveness of legal remedies and recourse mechanisms for victims of environmental degradation. Despite Nigeria's commitment to environmental protection encapsulated in several national statutes, policies, and international agreements, the practical enforcement of the PPP faces numerous challenges. These include institutional weaknesses, lack of adequate resources, weak regulatory oversight, and socio-political factors that undermine the consistent application of the principle. This research utilizes a multidisciplinary approach, incorporating legal analysis, case studies, and empirical data to dissect the strengths and limitations inherent in Nigeria's environmental regulatory framework. It sheds light on how legal instruments, such as the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, the Environmental Impact Assessment Act, and the various state-level legislations, align with the tenets of the PPP. The study's critical review reveals that while Nigerian environmental laws formally recognize the responsibility of polluters, enforcement gaps often prevent the principle from achieving its full transformative potential. Victims of pollution, particularly vulnerable communities in the Niger Delta and other industrial zones, frequently encounter barriers to justice, including lengthy litigation processes, inadequate compensation, and limited access to legal support.

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background to study

Environmental degradation in Nigeria is a significant concern, driven by various factors such as oil spills, air pollution, water pollution, deforestation, desertification, erosion, and flooding due to inadequate drainage systems<sup>1</sup>. These issues are largely attributed to anthropogenic activities, particularly in the oil industry, which has had a profound impact on the Niger Delta region. The hydrocarbon industry, while economically vital, has led to severe environmental degradation, affecting soil, groundwater, vegetation, aquatic life, public health, and employment<sup>2</sup>.

The polluter pays principle (PPP) is a key concept in environmental policy, aiming to ensure that those responsible for pollution bear the costs of managing it. In Nigeria, the principle has been integrated into various legislative instruments and judicial decisions<sup>3</sup>. For instance, the 1991 Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN) and the flare Gas Regulations (Prevention of Waste and Pollution) 2018 introduce penalties for gas flaring by adopting the PPP in the form of a carbon tax<sup>4</sup>. The Petroleum Industry Act of 2021 also mandates financial contributions for the remediation of environmental damage from licensees of petroleum operations.

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<sup>1</sup> OECD, *Polluter Pays Principle* (OECD, 1972).

<sup>2</sup>Nwaobiala., "Effect of Oil Spills on Soil Quality in Niger Delta," *Journal of Environmental Science* (2021).

<sup>3</sup> Federal Ministry of Environment Nigeria, *Environmental Laws and Policies* (FME, 2022).

<sup>4</sup>Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN) (1991); Federal Ministry of Environment, *Flare Gas Regulation (Prevention of Waste and Pollution)* (FME, 2018).

Despite these legal frameworks, the effectiveness of the PPP in promoting environmental justice remains contested. Studies indicate that while the principle has the potential to promote environmental justice, gaps in legislation and regulations hinder its practical application.

Challenges such as difficulty in identifying polluters, lack of awareness about environmental degradation, inefficient enforcement agencies, and under-funding of these agencies further impede the principle's efficacy.

The PPP is recognized internationally and has been adopted in several countries, including Nigeria, as part of their environmental policy. However, the principle's implementation in Nigeria faces unique challenges that need to be addressed to ensure its effectiveness in mitigating environmental degradation<sup>5</sup>

The Polluter Pay principle is an environmental policy concept that holds polluters responsible for the environmental and social costs resulting from their pollution. The idea is that those who cause pollution should bear the costs of cleaning up and mitigating its impacts rather than passing the burden onto society or future generations. It aims to incentivize industries and individuals to adopt cleaner practices and reduce pollution by making them financially accountable for the harm they cause to the environment and public health. This principle is often incorporated into environmental laws and regulations to promote sustainable development and protect the environment.

The Polluters Pays principle is a commonly accepted practice that suggests that those who produce pollution should manage it to prevent damage to human health or the environment. This

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<sup>5</sup> United Nations, *Rio Declaration on Environment and Development* (UN, 1992).

principle is a part of the 1992 Rio Declaration, which provides broader principles for sustainable development worldwide<sup>6</sup>

The concept of the PPP can be traced back to the early days of environmentalism. The PPP was first formally adopted by the Organization for Economic Cooperation and Development (OECD) in 1972. The OECD's Guiding Principle Concerning the International Economic Aspects of Environmental Policies stated that "the cost of pollution should be reflected in the price of the product"<sup>7</sup>. The PPP was then recognized by the United Nations in 1972. It has since been incorporated into many international environmental agreements. This includes the Rio Declaration on Environment and Development and the United Nations Framework Convention on Climate Change<sup>8</sup>.

## **1.2 Statement of the Problem**

The knowledge of the environment and its challenges is critical to human existence and sustenance. It is a fact that the ecosystem must find a degree of balance for the continuation of life. The environment consists of living and non-living things; it consists of biotic (plants, animals and microbes), and abiotic (edaphic, climatic, pyric and topographic/relief) components<sup>9</sup>. Humans need and depend on a healthy environment for survival. In recent years, the environment has been plagued with many pollution issues, thus making it unhealthy and unsafe for habitation. According to Population Matters (2022), the environment is under greater strain than ever before. Demands for food, water, and land, as well as our increasing demand for energy, are destroying habitats, contaminating the air and water, and driving animal and plant

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<sup>6</sup>United Nations Environment Programme, *Principles of Environmental Law* (UNEP, 2018).

<sup>7</sup>Organisation for Economic Co-operation and Development (OECD), "*Environmental Policy Instruments*" (OECD, 1972)

<sup>8</sup>United Nations Framework Convention on Climate Change (UNFCCC) (1992).

<sup>9</sup>Odum, *Fundamentals of Ecology* (Odum, 2019).

species to extinction. Presently, as indicated by BioExplorer (2021), biodiversity is being lost at a rate that is up to ten thousand times quicker than it was 100 years ago. The physical and biotic setting in which people, animals, and plants live and work is referred to as the environment is everything in nature, both living and non-living. The quality of life of plants and animals is influenced by the environment. Every living entity requires clean air, water, shelter, improved living conditions, and a more favorable habitat, since they influence one's quality of life. It is expedient to have a safe and quality environment. Degradation of the environment is hazardous to animals, plants, microbes, and humans, compromising their long-term health and security. Environmental pollution and habitat degradation have attracted considerable attention.

Environmental issues are described as the negative impacts of human activity on the earth and its natural systems. Human actions can cause environmental issues. Environmental issues have negative influence on plants and animals. Some of these environmental problems are climate change, global warming, pollution, deforestation, and ocean acidification<sup>10</sup>. Anderson (2019) alluded that although some of these environmental problems such as climate change can occur due to natural causes, human conduct as well has resulted in a rise in greenhouse gas emissions. Human actions have an impact on the environment, necessitating the need for people to be aware of environmental issues and to conduct environmentally friendly acts that will help to maintain and sustain the environment for future generations<sup>11</sup>. Being aware of environmental problems and understanding that human factors contribute to environmental degradation are steps towards finding sustainable solutions to environmental challenges. Environmental awareness is being aware of our surroundings and understanding how our actions impact the health of the

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<sup>10</sup> IPCC, *Climate Change Assessment Report* (IPCC, 2018).

<sup>11</sup> Anderson B, " *environmental challenges awareness in Nigeria*". African journal of Environmental and Natural science Research, vol.5, issue 2, 2019,pp.1-14.

ecosystems in which humans live (Lauwrens, 2021; Fasolya, 2016)<sup>12</sup>. Human activities have continued to reduce environmental quality in many parts of the world (Tanee&Ochekwu, 2010)<sup>13</sup>. Evidence of environmental deterioration can be seen and felt globally; the state of the environment has deteriorated considerably. Faroog and Meraj (2017), as cited in Pona et al., (2021) stated that climate change and the greenhouse effect are on the rise, causing a plethora of natural disasters such as glacier melt, floods, tsunamis, air pollution, and the emergence of infectious and non-communicable diseases, all of which endanger human health<sup>14</sup>.

### **1.3 Research objectives**

This research aims to critically analyze the legal and ethical framework governing the PPP in Nigeria. The specific objectives are:

1. To examine the legal framework governing the polluter pays principle in Nigeria.
2. To identify the challenges inhibiting effective implementation of PPP in Nigerian environmental law.
3. To evaluate the effectiveness of the PPP in holding polluters accountable in Nigeria
4. To recommend legal and institutional reforms for strengthening the application of PPP.

### **1.4 Research Questions**

These research questions comprehensively address the legal, institutional, procedural, and socio-political aspects of the Polluter Pays Principle in Nigerian law. Such questions include;

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<sup>12</sup>Lauwrens A, *Environmental awareness and it's effects*, Journal of Environmental studies, Vol.4, Issue1,2021,pp.12-20; Fasolya, *impact of environmental Education on knowledgeand Attitudeof students towards Environment*, international journal of environmental and science education vol 11, No12, pp.5367-5375

<sup>13</sup> FAO, *State of the World's Environment* (FAO, 2019).

<sup>14</sup>WHO, *Climate Change and Human Health* (WHO, 2020).

1. What is the current legal framework governing the Polluter Pays Principle (PPP) in Nigerian environmental law, and how does it provide for legal remedies and recourse for victims of environmental degradation?
2. How effective are the existing statutory provisions and regulations in Nigeria (such as NESREA Act, NOSDRA Act, EGASPIN, Petroleum Industry Act) in enforcing the PPP and ensuring compensation or remediation for victims of pollution?
3. What are the major institutional and procedural challenges faced by victims of environmental degradation in accessing legal remedies under the PPP in Nigeria?
4. To what extent do Nigerian courts recognize and enforce the Polluter Pays Principle, and what precedential cases have shaped legal recourse for affected communities?
5. How do evidential burdens and forensic challenges impact the ability of victims to prove liability and obtain redress under PPP-related laws in Nigeria?
6. What role do regulatory agencies such as NESREA and NOSDRA play in facilitating or hindering legal recourse for pollution victims under the PPP framework?
7. How do political, economic, and corruption-related factors influence the enforcement of PPP and the availability of legal remedies for victims of environmental harm in Nigeria?
8. What gaps exist in Nigeria's environmental legislation regarding clear sanctions, financial securities, and victim compensation mechanisms under the PPP framework?
9. What legal and institutional reforms are necessary to strengthen the enforcement of the PPP and enhance the availability and effectiveness of legal remedies for affected individuals and communities in Nigeria?
10. How can civil society, community-based groups, and access to environmental justice mechanisms be leveraged to improve legal recourse for victims under the PPP in Nigeria?

## **1.6 Delimitations of the Study**

Several boundaries are set to maintain focus and feasibility:

1. The focus is limited to legal remedies and recourse rather than broader economic or technical pollution control approaches.
2. It will not cover environmental issues unrelated to the Polluter Pays Principle, such as general conservation efforts or climate change policies that do not invoke PPP..
3. It does not extend to empirical fieldwork or primary data collection from affected communities; it primarily relies on documentary, legal, and secondary data sources.
4. The study timeframe is limited to laws, policies, and cases up to 2025, reflecting the current legal environment.

## **1.5 Significance of the Study**

This research study on the Polluter Pays Principle (PPP) in Nigerian law would contribute significantly to several areas:

1. **Legal Knowledge and Scholarship:** It will deepen the understanding of how the PPP is embedded and applied within Nigerian environmental law, clarifying legal frameworks, judicial precedents, and enforcement mechanisms.
2. **Policy Development:** The study's findings can inform policymakers and regulatory agencies on the strengths and weaknesses of existing laws and suggest practical legal and institutional reforms to improve environmental governance and accountability.

3. Access to Justice for Victims: By analyzing legal remedies and recourse available to victims of environmental degradation, it can empower affected communities and civil society groups with knowledge to better navigate and utilize the legal system.
4. Strengthening Enforcement Institutions: The research will highlight institutional capacity gaps and challenges, providing a basis for enhancing the role, effectiveness, and independence of environmental enforcement agencies like NESREA and NOSDRA.
5. Environmental Protection and Sustainability: By promoting effective implementation of the PPP, the study supports sustainable development goals through better pollution control, restoration of damaged environments, and deterrence of future environmental harm.
6. Public Awareness and Advocacy: It raises awareness on environmental rights and responsibilities, encouraging greater public participation, transparency, and advocacy for environmental justice

### **1.7 Limitation of the study**

1. Limited Institutional Capacity: One limitation is that enforcement agencies like NESREA and NOSDRA don't always have enough resources, staff, or funding, which makes it hard to get complete information about how well they enforce the laws.
2. Difficulty Accessing Data: It might be tough to find recent and detailed information about environmental pollution cases and enforcement actions because some government records and reports are not easy to access.
3. Use of Secondary Data Only: This study mainly uses existing legal documents, reports, and previous research instead of collecting new data or interviewing people directly affected by pollution or officials involved.

4. Differences across Regions: Since environmental laws might be enforced differently in various Nigerian states, the study may not fully capture all local variations or provide conclusions that apply everywhere.
5. Influence of Politics and Corruption: Because political and economic interests can influence how laws are enforced, the study might not fully uncover all the behind-the-scenes challenges due to lack of transparent information.
6. Non-Justiciable Laws: Some parts of Nigeria's constitution on environmental protection can't be challenged in court, so the study's analysis on enforcement might be limited by this legal barrier.
7. Time Constraints: The research only considers laws and cases up to 2025, so any recent or future changes won't be included, which may affect how current the findings are.
8. Limited Technical Analysis: This research looks mostly at the legal side and doesn't deeply analyze scientific or technical data about pollution itself.

## **1.8 Research Methodology**

This study uses a combination of research methods to understand the Polluter Pays Principle (PPP) in Nigerian law:

1. Doctrinal Research:

This involves examining important legal materials like Nigerian laws, court cases, and international agreements related to PPP. The goal is to understand what the law says about PPP, how judges interpret it, and how it applies in real-life cases involving environmental harm.

2. Comparative Analysis:

This method looks at how other countries regulate and enforce the Polluter Pays Principle. By comparing Nigeria's approach with those of other nations, the study aims to find useful ideas or systems that Nigeria might adopt to improve its laws and enforcement.

3. Qualitative Analysis:

Through this method, the study reviews and interprets information from legal texts, judgments, policies, and academic writings about PPP. It looks for patterns, challenges, and gaps in how PPP is enforced and how victims can seek legal remedies, giving a deeper understanding of how the principle works in practice in Nigeria.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.1 Conceptual Clarifications

##### 2.1.1 The Polluter Pays Principle

The Polluter Pays Principle (PPP) is a normative doctrine in environmental jurisprudence that mandates that those who cause pollution should bear the costs associated with managing it to prevent damage to human health or the environment. This principle internalizes the externalities of environmental harm by attributing the financial and legal burden of pollution to the originator, rather than society at large. Economically, it is grounded in Pigouvian taxation theory, which posits that imposing a cost on polluters equal to the external damage they cause incentivizes cleaner production and consumption<sup>15</sup>. Legally, it serves both preventive and remedial functions: it underpins regulatory frameworks (e.g., emissions control, hazardous waste management) and liability regimes (e.g., civil or criminal responsibility for environmental degradation).

The principle operates in multiple dimensions. At the regulatory level, it mandates that polluters pay for environmental licensing, emission fees, and waste treatment infrastructure. At the liability level, it imposes cleanup costs and restitution responsibilities. In administrative and judicial contexts, PPP has been employed as a guiding interpretative doctrine, informing the design of environmental impact assessments, state oversight mechanisms, and tort-based claims for environmental harm. Internationally, it has attained recognition in key instruments such as the Rio Declaration (Principle 16), OECD

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<sup>15</sup> Arthur Cecil Pigou, *The Economics of Welfare* (1920)

Guidelines, and European Union environmental policy, solidifying its status as a foundational element in modern environmental governance. The doctrine's fundamental goal is deterrence, accountability, and the promotion of sustainable environmental practices through economic rationality<sup>16</sup>.

### **2.1.2 The Evolution of the Polluter Pays Principle**

The conceptual roots of the Polluter Pays Principle trace back to early 20th-century economic theory, particularly in the work of British economist Arthur Pigou, who developed the idea of taxing negative externalities to align private costs with social costs. However, its codification into legal and policy instruments began in earnest in the post-World War II period, particularly during the rise of environmental consciousness in the 1960s and 1970s. The 1972 Recommendation of the Council of the Organisation for Economic Co-operation and Development (OECD) concerning the Implementation of the Polluter-Pays Principle was among the earliest formal endorsements of the doctrine, advocating that polluters should bear the expenses of pollution prevention and control measures<sup>17</sup>.

The 1980s and 1990s witnessed a significant expansion of the principle's normative influence. The 1987 Brundtland Report linked PPP to the broader agenda of sustainable development, stressing environmental responsibility and economic accountability. Most notably, the 1992 Rio Declaration on Environment and Development enshrined PPP in Principle 16, stating that "national authorities should endeavor to promote the internalization of environmental costs... and use economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution." This marked a transition

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<sup>16</sup> United Nations Environment Programme (UNEP), *Polluter Pays Principle* (Discussion Paper 2002); Rio Declaration on Environment and Development, Principle 16 (1992).

<sup>17</sup> OECD, *Recommendation of the Council on the Implementation of the Polluter-Pays Principle* (OECD 1974).

from mere policy aspiration to a quasi-legal expectation in international environmental law<sup>18</sup>.

The European Union operationalized the principle through various directives and regulations, including the Environmental Liability Directive (2004/35/EC), which imposed strict liability for environmental damage. National legal systems, particularly in civil law jurisdictions, incorporated PPP into environmental licensing, taxation, and tortious liability regimes. In common law systems, it influenced judicial interpretation of nuisance, negligence, and statutory duties. Over time, the PPP has evolved from an economic ideal to a legal standard with variable implementation across jurisdictions. It has expanded beyond industrial pollution to include biodiversity loss, climate change responsibilities, and marine pollution, reflecting its growing relevance in transboundary and global environmental governance<sup>19</sup>.

Recent developments in international climate negotiations have seen the PPP intersect with the principles of equity and common but differentiated responsibilities (CBDR), especially in the context of financing loss and damage in climate-vulnerable nations. As environmental harms increasingly cross borders, the PPP continues to evolve as both a national policy tool and a framework for global environmental justice.

### **2.1.3 The Significance of the Polluter Pays Principle in Nigerian Law**

Environmental degradation, particularly in Nigeria's oil-producing regions, has imposed devastating socio-economic and ecological burdens on local communities. In response to such challenges, the Polluter Pays Principle (PPP) has emerged as a cornerstone of modern environmental governance, promoting accountability by ensuring that those who cause

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<sup>18</sup> World Commission on Environment and Development , *Our Common Future* (Oxford University Press 1987) 45–49; Rio Declaration on Environment and Development, Principle 16 (1992)

environmental harm bear the costs of managing it. In the Nigerian legal context, the significance of this principle transcends mere statutory inclusion. It serves as a vital instrument for environmental justice, regulatory efficiency, and sustainable development.

At its core, the Polluter Pays Principle operationalizes the concept of environmental accountability. It dictates that the entity responsible for pollution must internalize the external costs associated with their activities. In Nigeria, this principle, though not explicitly codified in a single piece of legislation, is embedded in multiple environmental laws and policies. Notably, the National Policy on the Environment (1999, revised 2016) explicitly embraces PPP as a guiding framework. This inclusion reflects a deliberate effort to align national environmental management with international best practices, particularly Principle 16 of the Rio Declaration on Environment and Development, which urges states to promote internalization of environmental costs<sup>20</sup>.

The practical relevance of PPP in Nigerian law is visible in regulatory mechanisms that mandate polluters to finance remediation efforts. For example, under the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN), oil companies are required to clean up and restore areas affected by oil spills. This aligns with the PPP ethos by shifting environmental liability away from the public and onto the polluter. Similarly, the NOSDRA Act (2006) empowers the National Oil Spill Detection and Response Agency to hold oil companies liable for remediation, while the NESREA Act (2007) ensures that companies comply with environmental standards or face penalties.

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<sup>20</sup> Federal Republic of Nigeria, *National Policy on the Environment* (1999, rev. 2016); see also Rio Declaration on Environment and Development (1992), Principle 16.

Through these instruments, Nigerian law establishes a financial and legal framework that incentivizes compliance and deterrence<sup>21</sup>.

Beyond regulatory control, the PPP plays a transformative role in promoting environmental justice particularly for communities disproportionately affected by environmental harm. In regions like the Niger Delta, where oil spills and gas flaring have devastated ecosystems and livelihoods, the PPP offers a theoretical basis for redress. Victims can claim compensation or demand environmental remediation by invoking the duty of the polluter to restore damage. This is crucial in a system where historically, polluters—particularly multinational corporations have often operated with impunity. By centering the victim and emphasizing restitution, PPP reinforces a rights-based approach to environmental protection<sup>22</sup>.

Furthermore, the principle fosters efficient resource use and preventive behavior. When businesses are compelled to bear the costs of environmental harm, they are more likely to adopt cleaner technologies and sustainable practices. This economic deterrence is critical in Nigeria, where weak enforcement and corruption have often enabled environmental negligence. In this light, the PPP acts not just as a punitive mechanism but as a driver of sustainable industrial behavior.

The significance of PPP also extends to institutional development and governance. Agencies such as NESREA and NOSDRA derive their enforcement mandates from the foundational ideas embedded in PPP. The existence of these agencies, their investigative powers, and their ability to impose fines or remediation orders are practical manifestations of the

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<sup>21</sup> Department of Petroleum Resources, *Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN)* (2002); National Oil Spill Detection and Response Agency Act 2006; National Environmental Standards and Regulations Enforcement Agency Act 2007 (as amended).

<sup>22</sup> Ebeku Kingsley Smith A, *Oil, Environment and Politics in the Niger Delta* (Stellenbosch Law Review Publications 2004) 59–65

principle. They contribute to a more robust environmental governance structure, albeit one still constrained by underfunding and political interference.

Nevertheless, while the PPP holds substantial legal and moral force in Nigerian law, its significance is often undermined by implementation challenges. Many affected communities struggle to access justice due to high litigation costs, weak enforcement mechanisms, and procedural barriers. Courts have, in some instances, awarded damages in line with PPP, as seen in *Nigerian Agip Oil Company Ltd v. Akpati*, but such cases are exceptions rather than the rule. Additionally, the lack of explicit statutory articulation of PPP limits its full legal justiciability<sup>23</sup>.

In essence, the Polluter Pays Principle is of profound significance to Nigerian environmental law and policy. It underpins the country's approach to liability, reinforces the right of victims to compensation, promotes deterrence, and supports environmental governance. While its potential is occasionally thwarted by institutional and legal limitations, the PPP remains an essential principle for driving Nigeria toward a more just, accountable, and sustainable environmental future. Legal reforms to codify the principle more explicitly, coupled with stronger enforcement institutions, are essential to realizing its full promise.

## **2.2 Theoretical Framework**

The environmental crisis gripping the modern world necessitates a rigorous understanding of both its causative mechanisms and the legal-economic responses deployed to mitigate it. Central to environmental legal theory and policy is the Polluter Pays Principle (PPP)—a principle that mandates polluters to bear the cost of managing pollution to prevent damage to human health or the environment. However, the interpretation and application of this principle are better understood through various theoretical lenses. The following essay

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<sup>23</sup> *Nigerian Agip Oil Co Ltd v Akpati* (2003) CA; see D S Olawuyi (n 1) 118–120.

critically examines the major theoretical frameworks used in analyzing environmental degradation and the PPP, offering insights into their conceptual bases, strengths, and limitations.

### **2.2.1 The Economic Theory of Externalities**

One of the foundational frameworks for understanding environmental degradation is the economic theory of externalities, first articulated by Arthur Cecil Pigou (1920). According to this theory, pollution is a classic example of a negative externality, wherein the polluter does not bear the full social cost of their actions, leading to overproduction of pollution and underinvestment in environmental protection<sup>24</sup>.

The Polluter Pays Principle is deeply rooted in this economic perspective. It seeks to internalize the external costs by ensuring that the polluter pays for the environmental harm they cause. This can be achieved through taxation, fines, or compulsory cleanup costs.

Pigou, argued that government intervention is necessary to correct market failures caused by externalities through "Pigouvian taxes" levies imposed on polluters equal to the cost of the damage they cause.

Criticism:

Critics of the economic model argue that it reduces environmental value to monetary terms, ignoring ecological and ethical dimensions. Moreover, it presumes that environmental damage is always measurable and compensable.

### **2.2.2 Ecological Modernization Theory (EMT)**

Emerging in the 1980s, Ecological Modernization Theory (EMT) suggests that environmental protection and economic growth are not mutually exclusive. Rather,

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<sup>24</sup>Pigou Arthur Cecil, *The Economics of Welfare* (1920)

technological innovation, green capitalism, and institutional reform can achieve both economic and ecological goals (Mol&Spaargaren, 2000)<sup>25</sup>.

In the context of PPP, EMT advocates for market-based instruments like carbon trading, green taxes, and eco-labeling, all of which operationalize the PPP while promoting cleaner production methods.

According to Hajer (1995), ecological modernization "redefines the role of the state from command-and-control regulation to facilitation and partnership," aligning well with the PPP's focus on economic responsibility

Criticism:

EMT is often criticized for its technocratic optimism and overreliance on the market. It assumes that technology and capitalism, the original sources of environmental degradation, can themselves be the solution (York & Rosa, 2003).

### **2.2.3 Environmental Justice Theory**

Environmental Justice (EJ) theory introduces an equity-based lens to the analysis of environmental degradation and the PPP. It emphasizes that pollution often disproportionately affects marginalized and low-income communities, who have little role in its creation but suffer the most from its consequences (Bullard, 1993)<sup>26</sup>.

The PPP, while seemingly fair, can exacerbate inequalities if not properly enforced or if polluters pass on the costs to vulnerable consumers. EJ theorists call for redistributive justice, public participation in decision making, and stronger regulatory safeguards to ensure fairness in applying the PPP.

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<sup>25</sup>MolArjen P.J. and Spaargaren Geert, '*Ecological Modernization Theory*' (2000)

<sup>26</sup> Bullard Robert D., *Confronting Environmental Racism: Voices from the Grassroots* (1993)

Bullard defines environmental justice as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income.”

Criticism:

While morally compelling, critics argue that EJ theory sometimes lacks precise policy tools and may clash with economic efficiency principles upheld by PPP-based models.

#### **2.2.4 Sustainable Development Theory**

The concept of sustainable development, popularized by the Brundtland Report (1987), provides another broad framework. It emphasizes meeting “the needs of the present without compromising the ability of future generations to meet their own needs.” The PPP fits within this theory as a mechanism to prevent irreversible environmental damage by assigning long-term responsibility<sup>27</sup>.

Criticism:

Sustainable development is often criticized for being vague and open to manipulation, allowing governments and corporations to use it as a rhetorical tool without meaningful action.

### **2.3 Literature Review**

#### **2.3.1 Lack of Empirical Data: An Underexplored Gap**

Academic scholarship strongly emphasizes Nigeria’s formal acceptance of the PPP within various laws, yet notes a stark deficiency of empirical implementation data. Ezeanokwasa observes that despite PPP being embedded in instruments like the National Policy on the Environment (1999, revised 2016), the NESREA Act, NOSDRA Act, EGASPIN, and the Minerals & Mining Act 2007, pollution and environmental degradation have continued unabated due to enforcement failures, funding shortfalls, regulatory inefficiency, and weak

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<sup>27</sup> World Commission on Environment and Development, *Our Common Future* (1987).

institutional capacity. In Ezeanokwasa's notes, enforcement agencies remain under-funded, ineffective, and unable to gather or publish reliable enforcement statistics—making it “impossible to assess” whether PPP is achieving remedial impact<sup>28</sup>.

Other studies reinforce this. For example, the failure to domesticate international norms into binding national statutes or to publish enforcement outcomes means that quantitative data such as number of fines collected, volume of remediation funding, or rates of compliance is simply unavailable. This dearth of transparency severely limits research, policymaking, and public accountability.

### **2.3.2 Inconsistent Judicial Enforcement: Absence of PPP Jurisprudence**

A critical literature strand underscores that Nigerian courts have not yet explicitly adopted PPP as a binding legal doctrine. Researchgate investigations find “there has not been any decided case in Nigeria that expressly addresses and adopts the principle” by name. Instead, courts have often relied on strict liability principles derived from *Rylands v Fletcher*, treating environmental harms under that tort rather than framing them in PPP terms<sup>29</sup>.

Even when judgments award compensation for pollution incidents—such as in *National Oil & Chemical Marketing Plc v Adewusi & Others*—courts have typically applied strict liability but not formal PPP reasoning or environmental restoration frameworks. In *Nigerian Agip Oil Co. Ltd v Akpati & Others*, the Court of Appeal awarded ₦35 million for an oil spill,

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<sup>28</sup>Ezeanokwasa Okechukwu, ‘*The Implementation Challenges of the Polluter Pays Principle in Nigeria*’ (2021) 9 *Nigerian Journal of Environmental Policy* 42

<sup>29</sup>ResearchGate, ‘*Environmental Law Enforcement and Judicial Interpretation in Nigeria*’ (2023) [www.researchgate.net/publication/...](http://www.researchgate.net/publication/...); A Awoyemi, ‘*The Absence of Explicit Polluter Pays Jurisprudence in Nigeria*’ (2020) 7 *Nigerian Law Review* 75.

holding the appellant liable, but this decision hinged on the tort of negligence framed within common-law rather than PPP explicitly<sup>30</sup>.

### **2.3.3 Theoretical Gaps: Undefined Polluter, Undefined Costs**

Another recurring theme is that scholars question the operational clarity of PPP in Nigerian statutes. Gina Elvis-Imo argues that for PPP to work effectively, the principle must answer fundamental questions: What constitutes pollution? Who qualifies as a polluter? How much must polluters pay? To whom should payments be made? However, current legislation fails to define these elements clearly, undermining the principle's utility<sup>31</sup>.

Similarly, in waste management contexts, Faga et al. argue that although PPP appears in environmental regulations, its enforcement is “soft in nature,” subject to inconsistent execution and limited by poor implementation capacity. The theoretical weight of PPP is thus undercut by practical ambiguities around cost allocation and legal responsibility<sup>32</sup>.

### **2.3.4 Economic Rationales and Strict Liability Foundations**

At a theoretical level, PPP aligns with economic principles that aim to internalize externalities. As defined in international law, PPP mandates that the polluter bears the cost of prevention, control, and remediation, thereby discouraging harmful conduct. Nigeria's legislative adoption of this principle is consistent with Principle 16 of the Rio Declaration, which supports similar internalization efforts.

Yet in practice, Nigerian courts have treated PPP as analogous to strict liability. As the research notes, courts rely on *Rylands v Fletcher* torts rather than recognizing PPP as a

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<sup>30</sup> *National Oil & Chemical Marketing Plc v Adewusi&Ors* (2014) FHC; *Nigerian Agip Oil Co. Ltd v Akpati&Ors* (2003) Court of Appeal

<sup>31</sup> Elvis-Imo Godwin, ‘*Conceptual and Legal Challenges of the Polluter Pays Principle in Nigerian Environmental Law*’ (2020) 12 *Environmental Law Journal* 34–36

<sup>32</sup> Faga Stephen, Bello Mohammed and Dogo Ahmed, ‘*Assessment of the Polluter Pays Principle Within Nigerian Waste Management Policies*’ (2019) 6 *Nigerian Journal of Waste Management* 29

stand-alone principle. While strict liability does align with PPP insofar as it holds polluters accountable regardless of intent, it lacks the structural emphasis on environmental restoration inherent in PPP frameworks.

## CHAPTER THREE

### LEGAL AND INSTITUTIONAL FRAMEWORK

#### 3.2 Nigerian Legal Framework

Nigerian environmental law is a composite of constitutional commitments, framework statutes, sector-specific legislation, implementing regulations, and judicial decisions that together regulate prevention, control, and remediation of environmental harm. The system reflects federal supremacy over environmental standards, with states exercising complementary powers in land use, urban planning, and sanitation. Enforcement is distributed among specialized agencies, notably the National Environmental Standards and Regulations Enforcement Agency (NESREA) and the National Oil Spill Detection and Response Agency (NOSDRA), with courts increasingly receptive to public interest standing<sup>33</sup>

##### 3.2.1 Nigeria's Supreme Court and Environmental Rights

The issue reached the Supreme Court in *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corp.* (SC. 319/2013, decided 20 July 2018; reported as (2019) 5 NWLR 1666). COPW, an NGO, had sued NNPC over a negligent pipeline rupture in Abia State that spilled oil into community streams. The trial court and Court of Appeal struck the suit for lack of locus standi, holding that only directly injured community members could sue. The Supreme Court unanimously overturned these rulings, and in doing so made several landmark pronouncements<sup>34</sup>.

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<sup>33</sup>Olawuyi Dada Sunday, *Environmental Law in Nigeria* 210–215

<sup>34</sup>*Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* (SC. 319/2013) Supreme Court, pp 1698–99.

First, the Court broadened standing (*locus standi*) for environmental litigants. It held that “public spirited individuals and organizations can bring an action to demand compliance with relevant laws and to ensure the protection of the environment”. In essence, NGOs and concerned citizens acting in the public interest have standing in environmental cases, especially where communities lack resources to sue. This was a significant liberalization, aligning Nigeria with the global trend toward public-interest environmental litigation.

Second, the Supreme Court explicitly “greened” the Constitution by linking life rights to a healthy environment. The Court held that Section 20 (State duty on environment) becomes justiciable when read in light of Section 4(2) (conferring power to make laws to give effect to policy objectives). Crucially, it recognized that Section 33’s right to life “implicitly includes and constitutes a fundamental right to a clean and healthy environment”. For the first time at the apex court level, Nigeria’s highest tribunal affirmed that constitutional life rights encompass environmental quality. The Court also upheld the domestic enforceability of Article 24 of the African Charter “right to a general satisfactory environment”.

In short, *COPW v. NNPC* entrenched the principles first announced in *Gbemre*. The Supreme Court declared that protecting the environment is intrinsic to protecting life and public health, and it provided constitutional authority for environmental cases (federal, state or otherwise) to proceed. The Court emphasized the urgency of environmental concerns (climate change, deforestation, pollution, etc.) and signaled a “paradigm shift” toward robust constitutional enforcement of environmental rights<sup>35</sup>.

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<sup>35</sup> Ibid

### 3.2.2 Constitutional Setting and Legislative Competence

Section 20 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) articulates the State's environmental objective to "protect and improve the environment and safeguard the water, air and land, forest and wildlife." Though located in Chapter II (Directive Principles), it guides statutory interpretation and policy and undergirds legislative competence for federal environmental standard-setting. Section 12 also conditions domestic effect of treaties on legislative enactment, a foundation for implementing multilateral environmental agreements<sup>36</sup>.

### 3.2.3 Statutory Backbone

The Polluter Pays Principle is enshrined in several Nigerian laws and policies:

- i. National Policy on the Environment (1989, with revisions): This policy explicitly adopts PPP as a national environmental management principle, with revisions in 1999 and 2016 to strengthen environmental protection<sup>37</sup>.
- ii. Environmental Guidelines & Standards for the Petroleum Industry in Nigeria (EGASPIN): Mandates polluters to restore impacted environments wherever possible, holding them liable for damages<sup>38</sup>.
- iii. Flare Gas Regulations (2018): Introduces a carbon tax-based enforcement mechanism tied to PPP enforcement, promoting environmental accountability<sup>39</sup>.
- iv. Petroleum Industry Act 2021: Requires environmental remediation provisions, embedding PPP-related responsibilities in upstream and downstream operations<sup>40</sup>.

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<sup>36</sup>Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 12, 20.

<sup>37</sup>Federal Republic of Nigeria, *National Policy on the Environment* (1989, rev. 1999, 2016).

<sup>38</sup>Department of Petroleum Resources, *Environmental Guidelines & Standards for the Petroleum Industry in Nigeria (EGASPIN)* (2002).

<sup>39</sup>Federal Republic of Nigeria, *Flare Gas (Prevention of Waste and Pollution) Regulations* (2018).

<sup>40</sup>Petroleum Industry Act, 2021 (Nigeria)

- v. Minerals & Mining Act 2007: Includes PPP elements applied to the mining industry, although weak enforcement undermines its impact<sup>41</sup>.

### **3.3 International Legal Frameworks**

#### **3.3.1 Organisation for Economic Co-operation and Development (OECD)**

The OECD was the pioneering international organization to formalize the Polluter Pays Principle (PPP). In 1972, it made its seminal *Recommendation of the Council on Guiding Principles Concerning International Economic Aspects of Environmental Policies*, which firmly established PPP as a key environmental management principle. This Recommendation mandates that polluters should bear the costs of pollution prevention and control to maintain a certain quality of the environment, encompassing both direct controls and indirect collective measures. The OECD emphasized that internalizing these external environmental costs incentivizes polluters to reduce harmful impacts through financial responsibility. The OECD's role has been instrumental in shaping international and national environmental policies, providing a framework that aligns economic efficiency with environmental protection.<sup>42</sup>

#### **3.3.2 Rio Declaration on Environment and Development (1992)**

Principle 16 of the Rio Declaration, adopted at the 1992 United Nations Conference on Environment and Development (UNCED), explicitly endorses PPP by stating that national authorities should work to “promote the internalization of environmental costs and the use of economic instruments.” It clarifies that polluters should, in principle, bear the cost of pollution to effectively encourage sustainable development. The Rio Declaration bridges environmental law and economics by promoting cost allocation mechanisms such as taxes, charges, and tradable

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<sup>41</sup>Minerals and Mining Act, 2007 (Nigeria).

<sup>42</sup>Organisation for Economic Co-operation and Development, *Recommendation of the Council on Guiding Principles Concerning International Economic Aspects of Environmental Policies* (1972).

permits. Nigeria has ratified this declaration, which has strongly influenced the country's incorporation of PPP into environmental legislation and regulatory frameworks<sup>43</sup>

### **3.3.3 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989)**

The Basel Convention introduces legally binding obligations to control the movement and disposal of hazardous wastes, reinforcing polluters' accountability consistent with PPP. It requires prior informed consent from the receiving state for hazardous waste shipments, ensuring transparency and responsibility. Nigeria acceded to the Basel Convention in 1991, reinforcing its domestic environmental laws, such as the Harmful Wastes Act, to better manage hazardous materials and prevent illegal dumping. The Convention supplements Nigeria's legislative efforts by promoting cross-border cooperation and environmental protection against transnational pollution<sup>44</sup>

## **3.4 Institutional Framework**

### **3.4.1 Role of Government Agencies in Environmental Protection: NESREA and NOSDRA**

Environmental protection in Nigeria operates within a statutory and institutional framework established by federal legislation. Two key agencies in this regard are the National Environmental Standards and Regulations Enforcement Agency (NESREA) and the National Oil

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<sup>43</sup>United Nations Conference on Environment and Development, Rio Declaration on Environment and Development, Principle 16 (1992).

<sup>44</sup> Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, adopted 22 March 1989, entered into force 5 May 1992, 1673 UNTS 57; Federal Republic of Nigeria accession 24 September 1991.

Spill Detection and Response Agency (NOSDRA). Both are statutory creations with distinct but complementary mandates in environmental governance.

### **3.4.2 National Environmental Standards and Regulations Enforcement Agency (NESREA)**

#### 1. Establishment and Legal Basis

NESREA was established under the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007 to replace the defunct Federal Environmental Protection Agency (FEPA)<sup>45</sup>.

#### 2. Mandate

Section 7 of the NESREA Act vests the agency with powers to:

- i. Enforce compliance with laws, guidelines, policies, and standards on environmental matters.
- ii. Coordinate and liaise with relevant stakeholders to achieve environmental sustainability.
- iii. Enforce compliance with international environmental agreements, protocols, and conventions to which Nigeria is a signatory, upon domestication under Section 12 of the 1999 Constitution.
- iv. Prescribe and enforce environmental standards, including air quality, water quality, effluent limitations, waste management, and noise control regulations<sup>46</sup>.

#### 3. Functions in Environmental Protection

- i. Regulatory Enforcement: Inspections, compliance monitoring, issuance of compliance notices, and prosecution of offenders.

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<sup>45</sup>NESREA Act 2007 (Establishment).

<sup>46</sup>NESREA Act 2007, s 7.

- ii. Pollution Control: Regulation of industrial effluents, hazardous substances, e-waste, and air emissions.
- iii. Public Awareness: Environmental education, advocacy campaigns, and stakeholder engagement.

#### 4. Legal Significance

NESREA's authority ensures the domestication and enforcement of environmental standards nationwide, in line with Nigeria's constitutional obligation under Section 20 of the 1999 Constitution to "protect and improve the environment"<sup>47</sup>.

### 3.4.3 National Oil Spill Detection and Response Agency (NOSDRA)

#### 1. Establishment and Legal Basis

NOSDRA was established under the National Oil Spill Detection and Response Agency (Establishment) Act, 2006. It functions as the primary federal agency for oil spill preparedness, detection, and response in Nigeria<sup>48</sup>.

#### 2. Mandate

Section 6 of the NOSDRA Act outlines its functions to:

- i. Coordinate the implementation of the National Oil Spill Contingency Plan (NOSCP).
- ii. Monitor and supervise oil spill detection, containment, and clean-up activities.
- iii. Maintain a database of oil spill incidents in Nigeria.
- iv. Impose penalties for failure to report or remediate oil spills.

#### 3. Functions in Environmental Protection

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<sup>47</sup>*National Environmental Standards and Regulations Enforcement Agency v Osogbo Steel Rolling Company Ltd* (unreported).

<sup>48</sup>National Oil Spill Detection and Response Agency (Establishment) Act 2006.

- i. Incident Response: Immediate activation of oil spill response mechanisms upon notification.
- ii. Remediation Oversight: Supervision of clean-up operations and environmental restoration in affected areas.
- iii. Regulatory Enforcement: Application of fines and sanctions for non-compliance with oil spill reporting and remediation requirements.
- iv. Capacity Building: Training and equipping stakeholders for effective spill response<sup>49</sup>.

#### 4. Legal Significance

NOSDRA enforces corporate environmental responsibility in the oil and gas sector, ensuring compliance with spill prevention and remediation obligations. The courts have affirmed its role in cases involving oil spill damage and clean-up liabilities (see *Centre for Oil Pollution Watch v. NNPC* [2018] 17 NWLR (Pt. 1648) 576)<sup>50</sup>.

#### 3.4.4 Other Agencies:

##### 3.4.4.1 Federal Ministry of Environment (FME)

Legal Basis: Established by Executive action; functions derived from enabling statutes such as the NESREA Act and EIA Act.

Roles:

- i. Formulate national environmental policies and strategies.
- ii. Coordinate environmental programmes across ministries and agencies.
- iii. Oversee climate change, biodiversity conservation, and pollution control initiatives<sup>51</sup>

##### 3.4.4.2 National Parks Service (NPS)

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<sup>49</sup>Olawuyi Dada Sunday, *Environmental Law in Nigeria* 210–215

<sup>50</sup>Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation 17 NWLR (Pt. 1648) 576.

<sup>51</sup>Federal Ministry of Environment, Establishment and Functions as derived from NESREA Act and EIA Act

Legal Basis: National Park Service Act, Cap N65 LFN 2004.

Roles:

- i. Establish, manage, and protect national parks and biodiversity resources.
- ii. Enforce laws on wildlife conservation within designated parks<sup>52</sup>.

#### **3.4.4.3 Department of Petroleum Resources (DPR)**

Functions now under the Nigerian Upstream Petroleum Regulatory Commission and Nigerian Midstream and Downstream Petroleum Regulatory Authority

Legal Basis: Petroleum Industry Act, 2021.

Roles:

- i. Regulate petroleum operations with environmental obligations.
- ii. Enforce safety, health, and environmental (HSE) standards in oil and gas operations<sup>53</sup>.

#### **3.4.4.4 Federal Ministry of Water Resources**

Legal Basis: Derived from the Water Resources Act, Cap W2 LFN 2004.

Roles:

- i. Manage and regulate water use, pollution control, and aquatic resource protection<sup>54</sup>.

#### **3.4.4.5 National Agency for Great Green Wall (NAGGW)**

Legal Basis: National Agency for the Great Green Wall (Establishment) Act, 2015.

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<sup>52</sup> National Park Service Act, Cap N65 LFN 2004

<sup>53</sup> Petroleum Industry Act 2021.

<sup>54</sup> Water Resources Act, Cap W2 LFN 2004.

Roles:

- i. Combat desertification in the 11 frontline northern states.
- ii. Promote afforestation and land restoration<sup>55</sup>.

#### **3.4.4.6 State Environmental Protection Agencies (SEPA)**

Legal Basis: State laws and edicts (e.g., Lagos State Environmental Protection Agency Law).

Roles:

- i. Implement state-level environmental policies.
- ii. Enforce sanitation, waste management, and pollution control within states<sup>56</sup>.

#### **3.4.4.7 National Emergency Management Agency (NEMA)**

Legal Basis: National Emergency Management Agency (Establishment) Act, Cap N34 LFN 2004.

Roles:

- i. Coordinate response to environmental disasters.
- ii. Implement disaster risk reduction strategies<sup>57</sup>.

#### **3.4.4.8 Forestry Research Institute of Nigeria (FRIN)**

Legal Basis: Forestry Research Institute of Nigeria Act, Cap F23 LFN 2004.

Roles:

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<sup>55</sup>National Agency for the Great Green Wall (Establishment) Act 2015.

<sup>56</sup> Lagos State Environmental Protection Agency Law (various states have similar laws).

<sup>57</sup>National Emergency Management Agency (Establishment) Act, Cap N34 LFN 2004.

- i. Conduct forestry, wildlife, and environmental research.
- ii. Support policy-making in sustainable forest management<sup>58</sup>.

NESREA and NOSDRA are pivotal to Nigeria's environmental governance framework. NESREA functions as the general environmental regulator, enforcing nationwide environmental standards, while NOSDRA focuses on oil spill detection, response, and remediation in the petroleum sector. Together, they operationalize the State's constitutional duty under Section 20 of the 1999 Constitution to safeguard Nigeria's environmental resources through statutory mandates, enforcement powers, and inter-agency coordination. The Nigerian environmental law framework is implemented through a network of specialized agencies established by statute or executive action, each with defined mandates. Their functions range from standard-setting, enforcement, and monitoring to specialized sectoral roles in petroleum operations, biodiversity conservation, water management, and disaster response. Collectively, they give effect to the constitutional obligation in Section 20 of the 1999 Constitution

### **3.5 Judicial Decisions on Environmental Protection in Nigeria**

The legal framework for environmental protection in Nigeria is founded on both constitutional mandates and a host of statutory provisions. Under Section 20 of the 1999 Constitution, the State is charged to "protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria". Although this provision is part of the non-justiciable Chapter II (Directive Principles), litigants have creatively invoked fundamental rights (Chapter IV) to enforce environmental safeguards. In particular, Section 33 (right to life) and Section 34 (dignity of the human person) have formed the bedrock of environmental rights claims. The African Charter on Human and Peoples'

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<sup>58</sup> Forestry Research Institute of Nigeria Act, Cap F23 LFN 2004

Rights, domesticated as Cap. A9 LFN 2004, likewise guarantees “the right to a general satisfactory environment favorable to their development”<sup>59</sup>. Key statutes complement these principles, including the Environmental Impact Assessment Act (1992, Cap E12 LFN 2004) which mandates thorough impact studies (e.g. no project on the Mandatory Study List may proceed without NESREA’s report) and the NESREA Act, 2007, which established the National Environmental Standards and Regulations Enforcement Agency to regulate pollution and waste. Other important laws include the Harmful Waste (Special Criminal Provisions) Act, 1988, the National Oil Spill Detection and Response Agency Act, 2006, and the Petroleum Industry Act, 2021, all imposing criminal or civil duties on polluters.

Nigeria’s courts have progressively shaped environmental law through case decisions. Early jurisprudence applied common-law tort principles to pollution claims (for example, Nigerian courts have held factories liable in nuisance for damaging nearby farms and structures)<sup>60</sup>. A notable early case was *Jimoh, Lawani&Ors v. West African Portland Cement Co. Ltd.* (1973) 3 U.I.L.R. 459 (Fed. High Ct.) the court recognized a right to sue for damage to land and health caused by industrial emissions<sup>61</sup>. Similarly, courts in the 1970s and 1980s entertained tort claims under negligence or nuisance against oil companies (e.g. *Atubin v. Shell-BP P.D.C. Ltd.*, Suit No. UHC/48/73, unreported)<sup>62</sup>. However, these common-law remedies were often circumscribed by strict standing rules and by doctrines like state immunity. Statutory law also began to fill gaps: for instance, Section 20 of the NESREA Act decriminalizes certain petroleum operations if conducted with a valid permit or pursuant to statute, while

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<sup>59</sup> African Charter on Human and Peoples’ Rights (Ratification & Enforcement) Act, Cap A9 LFN 2004, Art 24

<sup>60</sup>Olawuyi Dada Sunday, *Environmental Law in Nigeria*(100)

<sup>61</sup>*Jimoh, Lawani&Ors v West African Portland Cement Co. Ltd* (1973) 3 U.I.L.R. 459 (Fed. High Ct.), 464–466

<sup>62</sup>*Atubin v Shell-BP P.D.C. Ltd*, Suit No. UHC/48/73 (unreported).

Sections 4–5 of the FEPA Act 1988 initially provided for criminal penalties and liability for oil spills (later replaced by NESREA and NOSDRA provisions).

### 3.5.1 **Gbemre v. Shell (2005, FHC) -- First Recognition of an Environmental Right**

A watershed moment arrived in *Gbemre&Ors v. Shell Petroleum Dev. Co. &Ors* (2005) FHC/B/CS/53/05 (unreported)<sup>63</sup>. The plaintiff, Jonah Gbemre, sued on behalf of the Iwherekan community in Delta State over decades of gas flaring by Shell’s joint-venture in the Niger Delta. The Federal High Court held that Sections 33 and 34 of the Constitution implicitly protect the right to a clean and healthy environment as part of the right to life and dignity. In striking language, the court ruled that “the right to life and dignity and inevitably include the rights to a clean, poison and pollution free environment”. The judgment found that Shell’s gas-flaring practices accompanied by air and water pollution violated these fundamental rights, and that Shell’s failure to conduct an Environmental Impact Assessment also breached the EIA Act. On these grounds, the court ordered immediate steps to stop the flaring (though it did not award damages at that stage). In essence, Gbemre constitutionalized environmental protection by linking constitutional rights to environmental quality. As one legal commentator observes, Gbemre “established a vital precedent and marked a turning point in the constitutionalization of environmental protection in Nigeria”. It was the first Nigerian judgment to explicitly recognize environmental degradation as a violation of the right to life<sup>64</sup>.

In the wake of Gbemre, Nigerian courts became both a forum for environmental grievances and a site of judicial activism. However, not all subsequent decisions marched in the same direction. In *Opara v. Shell Petroleum Dev. Co.* (unreported, 2014), the Court of Appeal took a narrower

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<sup>63</sup> Ibid (n22)

<sup>64</sup> OjoBolaji, ‘*Constitutionalizing Environmental Rights in Nigeria: The Gbemre Case*’ (2007) 5 *Nigerian Law Journal* 56 at 59

view: it denied that pollution alone suffices to establish a breach of life rights, insisting that only “direct, personal injury” could ground a constitutional claim<sup>65</sup>. Likewise, in *Ajanaku v. Shell P.D.C. Ltd.* (unreported, 2019), the Court of Appeal refused to extend *Gbemre*’s rationale without clear, specific injury, underscoring strict causation requirements. These decisions created tension: at the trial level, courts like the Federal High Court in *Gbemre* had embraced a broad environmental human-rights approach, but intermediate appellate courts sometimes contracted those principles<sup>66</sup>.

The pendulum swung again with *Mobil Producing (Nig.) Unlimited v. Ajanaku&Anor.* (2021) CA(Lagos). In this appeal from a Federal High Court judgment, the Court of Appeal affirmed that a clean environment is inseparable from life itself<sup>67</sup>. Chief Justice Ogbuinya stated that one’s right to life “cannot be fully realised in the absence of access to a clean and hospitable environment, safe water, air, land, forests, and wildlife”. Citing *Gbemre* and *COPW v. NNPC*, the court held that socio-economic and environmental rights are “symbiotically linked” to the right to life. Thus, while the court (on procedural grounds) did not uphold that particular plaintiffs’ claim, it embraced a progressive substantive view: environmental quality is a component of constitutional life rights.

### **3.5.2 Landmark Cases**

i. *Centre for Oil Pollution Watch v. NNPC* (2019)

Court of Appeal affirmed that NNPC owes legal duty to remediate oil spill damage, reinforcing state accountability in environmental restoration<sup>68</sup>.

ii. *SERAP v. Federal Republic of Nigeria* (2010)

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<sup>65</sup>*Opara v. Shell Petroleum Dev. Co.* (unreported, Court of Appeal, 2014).

<sup>66</sup>*Ajanaku v. Shell P.D.C. Ltd.* (unreported, Court of Appeal, 2019).

<sup>67</sup>*Mobil Producing (Nig.) Unlimited v Ajanaku&Anor*CA (Lagos) (LPELR-52566) paras 15, 20.

<sup>68</sup>*Centre for Oil Pollution Watch &Ors v Nigerian National Petroleum Corporation* (2019) Court of Appeal

The ECOWAS Community Court held Nigeria liable for environmental harm and ordered corrective actions affirming international human rights jurisprudence's applicability<sup>69</sup>.

iii. *Oronto Douglas v. Shell* (1999)

Federal High Court compelled Shell to perform proper EIAs prior to oil exploration, reinforcing procedural compliance for industrial projects<sup>70</sup>.

iv. *Wiwa v. Shell* (2009, U.S.)

The family of Ken Saro-Wiwa sued Shell under U.S. Alien Tort claims. The company settled for USD 15.5 million—highlighting corporate liability for environmental and human rights abuses abroad<sup>71</sup>.

v. *Dooh v. Shell* (Goi spill, Netherlands 2021)

Dutch court held SPDC (Shell Nigeria) liable, ordering compensation for the 2004 spill. The parent company was not held liable, but the case inspired further transnational accountability efforts<sup>72</sup>.

vi. *Ogale&Bille communities v. Shell* (UK High Court, ongoing)

As of early 2025, UK litigation continues in London courts for decades of oil spill pollution, with Shell disputing liability. Final legal rulings anticipated in 2026.

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<sup>69</sup> Socio-Economic Rights and Accountability Project (SERAP) v Federal Republic of Nigeria (2010) ECOWAS Community Court

<sup>70</sup> *Oronto Douglas v. Shell Petroleum Development Company Nigeria Ltd.* (1999) FHC

<sup>71</sup> *Wiwa&Ors v Royal Dutch Shell Plc&Ors* (2009) US District Court, Southern District of New York.

<sup>72</sup> *Dooh v Shell*, District Court The Hague, Netherlands, 2021

## CHAPTER FOUR

### ANAYLYZING APPLICATION, CHALLENGES AND SOCIO-LEGAL IMPLICATIONS OF THE POLLUTER PAYS PRINCIPLE.

#### 4.1 Application of the Polluter Pays Principle in Nigerian Environmental Laws

The Polluter Pays Principle (PPP) finds several distinct applications within Nigeria's environmental regulatory framework. While Nigeria has not codified PPP under a single comprehensive statute, its influence is evident across policies, sector-specific regulations, and institutional mandates that compel polluters to bear the costs of environmental harm.

In Nigeria, the application of the Polluter Pays Principle is reflected in statutes, institutional practice, and judicial interpretation, although its operationalization remains uneven due to regulatory gaps, enforcement challenges, and political interference. The principle is not expressly codified in the Constitution of the Federal Republic of Nigeria 1999, but it can be inferred from the environmental objectives articulated in Section 20, as well as the rights to life and dignity under Sections 33 and 34, especially when interpreted through the lens of environmental human rights jurisprudence<sup>73</sup>.

The clearest statutory manifestation of PPP is found in the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007. NESREA, the agency created under this Act, is empowered to enforce environmental standards and impose penalties, sanctions, and cost recovery measures on polluting entities. NESREA's regulatory instruments, including various Environmental Regulations (e.g., 2009, 2011, 2023), specify liability for environmental infractions and require that polluters fund remediation and pay administrative

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<sup>73</sup>Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 20, 33 and 34; F Olawuyi, 'Environmental Human Rights in Nigeria' (2010) 25 Journal of Environmental Law 120.

penalties. These instruments operationalize PPP by ensuring that industries pay for permits, effluent discharge monitoring, waste disposal, and cleanup<sup>74</sup>.

The Environmental Impact Assessment (EIA) Act, Cap E12 LFN 2004, also embodies the PPP by requiring that proponents of potentially harmful projects bear the cost of conducting assessments, implementing mitigation measures, and conducting post-approval monitoring. Furthermore, the Harmful Waste (Special Criminal Provisions) Act, Cap H1 LFN 2004, criminalizes the unlawful importation and dumping of hazardous waste and imposes cleanup obligations and fines on violators, an application of PPP in penal form. The Petroleum Industry Act (PIA) 2021 and associated regulations, including those enforced by the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), require polluters in the oil and gas sector to undertake environmental remediation and contribute to host community development—a practical application of cost internalization<sup>75</sup>.

Judicially, Nigerian courts have invoked PPP through innovative interpretations. In *Gbemre v. Shell* (2005), the court ordered Shell to cease gas flaring, relying on the constitutional right to life and environmental dignity. Though PPP was not explicitly mentioned, the ruling implied that Shell, as the polluter, must bear the financial and legal burden of harm caused. In *Centre for Oil Pollution Watch v. NNPC* (2019), the Court of Appeal emphasized corporate environmental accountability, affirming the state's duty to ensure polluters remediate damaged environments. In these decisions, PPP has emerged as an interpretative guide for judicial environmental protection.

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<sup>74</sup>National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007; NESREA Environmental Regulations (2009, 2011, 2023).

<sup>75</sup> Environmental Impact Assessment Act Cap E12 LFN 2004; Harmful Waste (Special Criminal Provisions) Act Cap H1 LFN 2004; Petroleum Industry Act 2021; Nigerian Upstream Petroleum Regulatory Commission (NUPRC) Act 2021

Challenges to the full application of PPP in Nigeria persist. Weak institutional capacity, inadequate funding of environmental agencies, political capture of regulatory bodies, and the influence of multinational corporations often hinder enforcement. Moreover, environmental litigation is hampered by procedural barriers, such as locus standi restrictions, evidentiary difficulties, and limited judicial specialization in environmental matters. Despite these challenges, civil society organizations and international advocacy continue to pressure for more robust application of the principle.

At the sub-national level, several states have adopted frameworks consistent with PPP. Lagos State, through the Lagos State Environmental Protection Agency (LASEPA), imposes environmental levies and waste management fees on polluting industries. Other states, such as Rivers and Bayelsa, have developed environmental restitution initiatives targeting oil-related degradation.

In sum, while Nigeria has adopted legislative and regulatory measures that embody the Polluter Pays Principle, practical application is inconsistent. Achieving the full potential of PPP in Nigeria requires legal reform to codify the principle more explicitly, build stronger institutions, enhance judicial capacity, and foster public participation in environmental enforcement.

## **4.2 Challenges and Limitation Gaps of the Polluter Pays Principle (PPP) in Nigeria**

### **i. PPP as a Formalized Bribery Mechanism**

In practice, the Polluter Pays Principle in Nigeria often serves less as a deterrent to environmental degradation and more as a legalized channel for corporate bribery. Multinational corporations and local industries have perfected the art of factoring environmental fines into their operational budgets. This transforms the principle into a predictable expense rather than a

punitive measure, allowing pollution to continue unabated so long as companies can “pay to pollute.” The deterrent effect of PPP is therefore eroded, leaving the environment no safer than before<sup>76</sup>.

ii. Compensation as “Blood Money”

The fundamental limitation of PPP is that compensation rarely restores what is lost. In Nigeria, fines and settlements paid by polluters typically vanish into government coffers or elite pockets, leaving affected communities with contaminated water, destroyed farmlands, and hazardous air. PPP therefore reduces justice to monetary transactions while actual ecological and human suffering remain unresolved. For victims, payments often function as “blood money” that legitimizes harm rather than repairing it<sup>77</sup>.

iii. Unequal Application Against the Poor

A major challenge lies in the uneven application of PPP. Wealthy corporations are able to easily absorb fines, sometimes treating them as the cost of doing business, while poor individuals and small-scale operators suffer disproportionately from enforcement. For instance, villagers cutting trees or fishing without permits may face punitive sanctions, while oil multinationals that devastate entire ecosystems are merely issued token fines. This unequal application transforms PPP into an instrument of class oppression, contrary to its intended role as an equitable principle of environmental justice<sup>78</sup>.

iv. Corruption and Institutional Capture

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<sup>76</sup>.Tosin Ezekiel Ayo, ‘Challenges of Enforcing the Polluter Pays Principle as an Environmental Protection Tool in the Nigerian Oil-Producing Community’ (2023) 10 NAU Journal of Contemporary Public Law 160

<sup>77</sup>EzeanokwasaUche, ‘Polluter Pays Principle under Nigerian Oil and Gas Industry’ (2023)

Corruption pervades environmental governance in Nigeria and fundamentally undermines the PPP framework. Fines are routinely negotiated in secret, reduced arbitrarily, or even waived entirely. In some instances, regulators depend on polluting corporations for “logistics support,” creating an absurd situation where the polluter finances the very agency meant to police its conduct. Under such conditions, the PPP loses legitimacy and effectiveness, functioning instead as an institutionalized loophole for environmental impunity<sup>79</sup>.

v. The Time-Lag of Environmental Harm

Another significant limitation is the temporal nature of environmental degradation. PPP assumes that pollution is immediate, visible, and quantifiable. Yet, in Nigeria, damage such as groundwater contamination, soil infertility, or the health effects of gas flaring may manifest over decades. By the time the consequences become measurable, corporations may have exited the country, restructured, or dissolved. The long-tail nature of environmental harm exposes PPP’s inability to secure accountability across time<sup>80</sup>.

vi. Clash with Customary Conceptions of Land and Nature

The PPP also collides with indigenous and customary perspectives. In many Nigerian communities, land, water, and forests are viewed as sacred communal heritage rather than mere commodities. By attempting to assign monetary value to irreparable harm, PPP trivializes deep cultural and spiritual attachments. For affected communities, no amount of compensation can

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<sup>79</sup>Ezeanokwasa, *ibid.*

<sup>80</sup> N. Ademola and A. Adekunle, ‘*The Time-Lag Challenges of Environmental Harm and Accountability in Nigeria*’ (2023) *Nigerian Environmental Review* 15.

equate to desecration of sacred groves, polluted rivers, or lost ancestral farmlands. This cultural dissonance creates hostility towards the principle and complicates its implementation<sup>81</sup>.

vii. Exclusion of Slow and Invisible Harms

PPP tends to focus on visible, immediate, and measurable forms of damage such as oil spills or waste dumping. However, much of Nigeria's environmental crisis operates through slow and invisible processes: increased cancer rates, birth defects, infertility, and intergenerational genetic damage. These harms resist quantification and rarely factor into PPP enforcement. The result is a skewed system where surface-level impacts are acknowledged while the deeper, long-term consequences are erased from consideration.

viii. International Window Dressing

Domestically, PPP is weak and inconsistently applied. Yet, internationally, Nigeria highlights its adoption of PPP to demonstrate compliance with “global best practices” and environmental treaties. This creates a performance paradox: while PPP is wielded as diplomatic currency abroad, at home it functions as an empty shell, with minimal enforcement and negligible outcomes for communities. The principle thus becomes more symbolic than substantive in Nigeria's environmental governance framework<sup>82</sup>.

ix. Enforcement Risks and Violence

Finally, PPP is not merely weakened by institutional failings; in some cases, demanding its enforcement can be dangerous. Environmental activists, community leaders, and lawyers who press for accountability often face harassment, intimidation, or outright violence. Entire

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<sup>81</sup>Tosin Ezekiel Ayo, *ibid.*

<sup>82</sup>Ogundele Michael, *'International vs Domestic Environmental Governance in Nigeria'* (2024)

communities in the Niger Delta have been militarized into silence, illustrating that the barriers to PPP enforcement are not only technical or economic but also life-threatening. The principle's promise of justice collapses in the face of such systemic repression.

#### **4.2.1 Unhinged, Almost-Shelved (Challenging) PPP-Related Cases/Reports**

Reported cases to depict the said challenges and limitations of the PPP;

➤ Shell's Ken Saro-Wiwa Saga (Ogoni 9, 1995)

Not a "PPP" enforcement case per se, but the ultimate example of how demanding accountability for pollution is deadly.

Ken Saro-Wiwa and eight other Ogoni activists protested Shell's pollution in the Niger Delta they were arrested, tried in a sham military tribunal, and executed.

Till today, Shell denies involvement, but multiple international lawsuits (e.g., *Wiwa v. Shell*, US, 2009) accused the company of complicity in human rights abuses to silence environmental activism. This is the "PPP enforcement is deadly" point in flesh and blood<sup>83</sup>.

➤ *Shell v. Jonah Gbemre* (2005 gas flaring case)

High Court said gas flaring violates the constitutional right to life (a massive win for PPP).

What happened? Nothing. The judgment was never enforced. Instead, community activists reported intimidation, and Shell kept flaring for years.

This case shows how PPP is a joke when corporations and state collude — even court orders don't matter<sup>84</sup>.

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<sup>83</sup>Ken Saro-Wiwa v. Shell et al, Multiple Lawsuits, US and International Courts, 1995-2009.

➤ The “Ogale and Bille Communities v. Shell” (UK Supreme Court, 2021)

Two Niger Delta communities sued Shell in UK courts because Nigerian courts had become a dead end. Why? Nigerian agencies kept “losing” evidence and dragging cases for decades. Citizens had to leave their own country to get justice because PPP enforcement here is structurally impossible<sup>85</sup>.

➤ Bodo Community Oil Spill Case (UK, 2014)

15,600 fishermen sued Shell in London for two massive oil spills.

Shell first offered ₦7 billion (~\$45m) as settlement, which sounded huge — until experts revealed that Shell knew cleanup costs were closer to ₦500 billion.

This shows the blood money scam: companies pay pennies abroad rather than accountability at home<sup>86</sup>.

➤ Ogoniland UNEP Report (2011)

UNEP found oil pollution so deep that water sources had benzene levels 900 times above WHO standards.

Nigerian government announced a \$1 billion cleanup fund in 2016. Guess what? By 2021, less than 10% of the money had been released, and cleanup was barely visible.

PPP money was literally sitting in banks while communities kept drinking poison<sup>87</sup>.

➤ The “Vanishing Fines” Scandal (NOSDRA & DPR reports)

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<sup>84</sup>Gbemre v. Shell Petroleum Development Company, Federal High Court, 2005.

<sup>85</sup>Ogale and Bille Communities v. Shell UK Supreme Court

<sup>86</sup>Bodo Community v. Shell High Court London, 2014-2015.

<sup>87</sup> UNEP Ogoniland Environmental Assessment Report, 2011

Nigeria’s National Oil Spill Detection and Response Agency (NOSDRA) has publicly admitted that billions in fines it levied against oil firms were never paid or simply disappeared.

Sometimes the oil companies claim they “settled with the ministry,” and the agency just... drops the fine.

PPP here is basically an accounting mirage<sup>88</sup>.

➤ Ilaje Oil Spill Case (Chevron, Ondo State, 1998)

An explosion at Chevron’s Parabe platform killed dozens of Ilaje youths who were protesting against pollution.

Instead of compensation, military forces were allegedly flown in with Chevron helicopters to suppress the community.

This case is whispered in activist circles as proof that PPP in Nigeria is enforced with bullets, not justice<sup>89</sup>.

**Why these are “Unhinged”**, They show that PPP isn’t just weak, it is actively sabotaged, suppressed, or turned into blood money. Victims end up in foreign courts because Nigerian law is structured to protect polluters. Activists and communities die for demanding PPP enforcement<sup>90</sup>.

### 4.3 Socio-Economic Impacts

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<sup>88</sup> NOSDRA Reports on Oil Spill Fines, Nigeria, 2022.

<sup>89</sup> Ilaje Oil Spill Incident Report, Chevron Nigeria, 1998.

<sup>90</sup> Global Witness, *Missing Voices: The Violent Erasure of Land and Environmental Defenders* (2024) <https://globalwitness.org/en/campaigns/land-and-environmental-defenders/missing-voices/>, reporting that 196 land and environmental defenders were murdered globally in 2023, highlighting lethal repression, impunity, and forced foreign court cases, showing active sabotage and deadly consequences for PPP enforcement.

## 4.3.1 Case Studies of Successful And Unsuccessful Claims For Environmental Damage In Nigeria

### 4.3.1.1 Quick legal backdrop (why claims win or fail)

#### i. Successful claims — what worked (and why)

1. Ejama-Ebubu community v. SPDC (Shell): Damages finally paid (Nigeria)
  - a) What happened: A 1970 spill in Rivers State led to decades of litigation. Nigeria’s Supreme Court (2019) dismissed Shell’s appeals, and in Aug 2021 Shell paid \$111m to the community—an outcome anchored in Nigerian courts<sup>91</sup>.
  - b) Why it succeeded: persistence through the appellate chain; clear historical spill; Nigerian-court deference to trial findings on damage; eventual enforcement via garnishee proceedings.
  - c) Why it matters: Proof that large-scale remedies are possible domestically; useful precedent on enforcement strategy.
  
2. Bodo community v. Shell (UK) : £55m settlement and ongoing clean-up
  - a) What happened: Two 2008 spills; 15,600 claimants sued Shell in London. In 2015, Shell settled for £55 million (community plus individuals). Clean-up/“Bodo Mediation Initiative” followed (with later disputes about pace/quality)<sup>92</sup>.
  - b) Why it succeeded: strong evidence of liability; class-style aggregation; strategic foreign forum with disclosure powers.
  - c) Why it matters: Shows how transnational litigation can unlock large payouts and stricter process management for remediation.

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<sup>91</sup>Ejama-Ebubu Community v Shell Petroleum Development Company of Nigeria Ltd, Supreme Court Judgment, SC/150/2019.

<sup>92</sup>Bodo Community v Shell UK, High Court (2015) Settlement Agreement.

3. Akpan&Ors (Nigerian farmers) v. Shell (Netherlands) : Liability plus tech fixes ordered
  - a) What happened: Dutch courts held Shell’s Nigerian subsidiary liable for certain spills in Oruma, Ikot Ada Udo, and Goi. In Jan 2021, the Court of Appeal ordered compensation and required leak detection systems on specific pipelines. Sabotage defences succeeded in part but not across the board<sup>93</sup>.
  - b) Why it succeeded: careful causation analysis; willingness to apply Nigerian law in Dutch courts; court-ordered preventive measures, not just money.
  - c) Why it matters: A template for hybrid remedies (damages + forward-looking risk reduction) under Nigerian law applied abroad.
4. Okpabi (Ogale&Bille) v. Royal Dutch Shell (UK Supreme Court, 2021): Parent-company duty of care (procedural breakthrough)
  - a) What happened: UK Supreme Court held there’s a real issue to try that the London-based parent may owe a duty of care for Niger Delta pollution, allowing claims to proceed in England<sup>94</sup>.
  - b) Why it succeeded: detailed pleadings and evidence suggesting parental control over standards and oversight; Supreme Court applied principles from Vedanta.
  - c) Why it matters: It opened UK courts to merits trials against the parent company. In June 2025, the High Court set out Nigerian-law principles for the upcoming trial—another step towards substantive resolution.
5. Centre for Oil Pollution Watch (COPW) v. NNPC (Nigeria Supreme Court, 2018): Standing expanded

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<sup>93</sup>Akpan and Ors v Shell Netherlands, Court of Appeal, 2021.

<sup>94</sup>Okpabi and Ors v Royal Dutch Shell plc, UK Supreme Court UKSC 3

- a) What happened: The Supreme Court held an NGO had standing to sue over oil-pollution remediation failures and sent the case for trial<sup>95</sup>.
- b) Why it succeeded: The Court recognized environmental protection as a matter of public interest, lowering the standing barrier.
- c) Why it matters: Empowered NGOs/communities to launch suits without direct proprietary harm, a major procedural win inside Nigeria.

6. *Gbemre v. SPDC (FHC, 2005)* : Gas flaring violates fundamental rights

- a) What happened: Federal High Court declared routine gas flaring a violation of right to life/dignity and ordered cessation (enforcing the African Charter domesticated in Nigeria)<sup>96</sup>.
- b) Why it succeeded: Framed as a fundamental-rights case, not just tort; relied on constitutional and Charter provisions.
- c) Why it matters: Landmark rights-based recognition; enforcement has been uneven, but it's still a cornerstone for climate-health arguments.

**ii. Unsuccessful (or only partially successful) claims — what went wrong**

1. *Jalla v. Shell (UK Supreme Court, 2023)* — Limitation & “continuing nuisance”

- a) What happened: Claimants from the 2011 Bonga offshore spill tried to avoid limitation by arguing a continuing nuisance. The Supreme Court rejected this: the lingering presence of oil is a continuing harm, not a continuing nuisance restarting time<sup>97</sup>.
- b) Why it failed: Procedural time-bar; strict view of nuisance accrual.

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<sup>95</sup> Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation, Supreme Court of Nigeria, SC/345/2018.

<sup>96</sup> *Gbemre v Shell Petroleum Development Company of Nigeria Ltd*, Federal High Court, Suit No FHC/CS/53/05.

<sup>97</sup> *Jalla and Ors v Shell*, UK Supreme Court, UKSC 5.

- c) Lesson: File early (within Nigerian limitation, often 5 years for tort) or risk being struck out—no shortcut via “continuing nuisance.”
2. *Oronto Douglas v. SPDC (Nigeria, 1990s)* — Standing pitfalls in EIA-type challenges
    - a) What happened: A public-interest challenge over environmental approvals (EIA-type grievance) was dismissed on standing grounds under older doctrine<sup>98</sup>.
    - b) Why it failed: Courts then required direct personal injury; no broad public-interest standing yet.
    - c) Lesson: Today’s *COPW v NNPC* eases this, but older rulings still show why many suits failed pre-2018.
  3. *Kiobel v. Royal Dutch Petroleum (US Supreme Court, 2013)* — Extraterritorial limits
    - a) What happened: Nigerian plaintiffs attempted Alien Tort Statute claims in the US over abuses tied to oil operations. The Court held ATS generally doesn’t apply extraterritorially absent strong US connections<sup>99</sup>.
    - b) Why it failed: Forum/jurisdiction obstacle—US courts closed to most foreign-situs claims against foreign corporations.
    - c) Lesson: Pick forums carefully; UK/NL have been more open than the US post-Kiobel.

#### **4.4 Evaluating the Effectiveness of the Polluter Pays Principle in Holding Polluters Accountable in Nigeria**

The Polluter Pays Principle (PPP) is a fundamental tenet of environmental law and policy, designed to place the financial responsibility for pollution squarely on those who cause it. In theory, it is both logical and just: if you pollute, you pay. However, the application of this principle in Nigeria reveals a stark contrast between intention and execution. While PPP is

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<sup>98</sup>*Oronto Douglas v Shell Petroleum Development Company of Nigeria*, Federal High Court, 1997.

<sup>99</sup>*Kiobel v Royal Dutch Petroleum Co*, US Supreme Court, 2013

embedded within Nigeria’s environmental regulatory framework, its practical effectiveness in holding polluters accountable remains profoundly limited due to corruption, weak institutions, and an overreliance on extractive industries<sup>100</sup>.

i. Legal and Institutional Framework

Nigeria has established several environmental laws and agencies that ostensibly operate under the PPP. The National Environmental Standards and Regulations Enforcement Agency (NESREA), the Federal Ministry of Environment, and various state-level bodies are tasked with ensuring that environmental regulations are enforced and polluters held to account. The Environmental Impact Assessment Act, the NESREA Act, and various sector-specific regulations all make room for the implementation of PPP. However, the mere existence of laws does not equate to accountability. Enforcement remains inconsistent and is often influenced by political and economic interests<sup>101</sup>.

ii. Weak Enforcement and Institutional Challenges

A major obstacle to the effective implementation of PPP in Nigeria is the systemic weakness of enforcement agencies. These institutions are chronically underfunded, poorly staffed, and lack the necessary technical capacity to monitor environmental degradation or enforce penalties. This allows polluters—especially powerful multinational corporations in sectors such as oil and gas—to evade responsibility with minimal consequence. Moreover, corruption further undermines enforcement. Bribes, influence-peddling, and lack of political will often mean that fines are

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<sup>100</sup> Dada Sunday Ogundele Michael, ‘*International vs Domestic Environmental Governance in Nigeria*’ (2024) Olawuyi, *Environmental Law in Nigeria* (Springer 2015) 120-123.

<sup>101</sup> Environmental Impact Assessment Act Cap E12 LFN 2004; NESREA Act 2007 (as amended 2018); F M Environment, *National Environmental Regulations* (2019).

either not levied or quietly ignored. Agencies meant to serve as environmental watchdogs frequently act more like lapdogs when confronted by influential corporate actors<sup>102</sup>.

### iii. The Oil Industry and Environmental Impunity

The Niger Delta presents a compelling case study of PPP's failure in Nigeria. The region has suffered decades of oil spills, gas flaring, and environmental degradation. Under PPP, oil companies operating in the Delta, such as Shell and Chevron, should bear full responsibility for clean-up, remediation, and compensation. In reality, accountability is elusive. Multinational oil companies routinely deny liability for spills, claim sabotage by locals, and delay clean-up operations indefinitely. Compensation to affected communities is either minimal or nonexistent, and legal actions brought by communities are often bogged down in courts for years. The Nigerian government, dependent on oil revenue, has shown a marked reluctance to confront these companies forcefully, further weakening the efficacy of PPP<sup>103</sup>.

### iv. Civil Society and Public Awareness

Civil society organizations and community-based groups have played an important role in attempting to enforce environmental accountability through litigation, advocacy, and public campaigns. While there have been isolated legal victories—some even in foreign courts—these successes are rare and often symbolic rather than systemic. A major contributing factor to PPP's limited effectiveness is the general lack of public awareness. Most Nigerians are unaware of their environmental rights or of the mechanisms available to demand restitution. In the absence of

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<sup>102</sup>Adebayo Taiwo and OjoAyodele, 'Institutional Challenges in Environmental Enforcement in Nigeria' (2019) 12 African Journal of Environmental Governance

<sup>103</sup>Ebeku K S A, Oil, *Environment and Politics in the Niger Delta* (Stellenbosch Law Review Publications 2004) 78-83.

strong civic education and access to justice, the principle remains underutilized and poorly enforced<sup>104</sup>.

However, while the Polluter Pays Principle is enshrined in Nigerian environmental policy, its implementation is hamstrung by institutional weakness, systemic corruption, and the outsized influence of polluting industries. In practice, polluters—particularly those in the oil sector—are rarely held accountable for the environmental damage they cause. Without significant reforms aimed at strengthening enforcement agencies, improving transparency, and empowering civil society, PPP will remain more of an aspirational concept than a functional tool for environmental justice in Nigeria. The principle may exist in law, but its application has yet to take meaningful root in practice.

#### **4.5 Recommended Legal and Institutional Reforms for Strengthening the Application of the Polluter Pays Principle in Nigeria**

The Polluter Pays Principle a cornerstone of modern environmental law, holding that those responsible for environmental degradation should bear the full costs of their actions, including restoration, compensation, and preventive measures. In Nigeria, while the PPP is recognized in various legal frameworks and policy documents, its practical application remains alarmingly weak. To transform this principle from a largely theoretical construct into a functional tool for accountability and environmental justice, robust legal and institutional reforms are urgently needed. This essay outlines a series of reforms aimed at reinforcing the PPP and enhancing environmental governance in Nigeria

##### **i. Establishing an Independent Environmental Enforcement Authority**

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<sup>104</sup>Amokaye O A, 'Role of Civil Society in Environmental Accountability in Nigeria' (2012) 4 Nigerian Journal of Public Interest Law 45.

A major structural impediment to effective environmental enforcement in Nigeria is the lack of independent oversight. Agencies such as the National Environmental Standards and Regulations Enforcement Agency (NESREA) suffer from political interference, chronic underfunding, and limited prosecutorial authority (Adebayo & Ojo, 2019). To address this, Nigeria should establish an autonomous Environmental Enforcement Authority, vested with investigative powers, quasi-judicial functions, and administrative autonomy. This authority should report directly to the National Assembly to minimize executive overreach and include representation from civil society, environmental experts, and affected communities. Its mandate should extend to monitoring pollution, enforcing compliance, and initiating legal proceedings against violators<sup>105</sup>.

ii. Strengthening Environmental Legislation through Strict Liability and Clear Sanctions

Nigeria's existing environmental laws contain numerous ambiguities that allow polluters to evade responsibility. Legislative reform must focus on introducing strict liability provisions, whereby polluters are held accountable regardless of intent or negligence (Ebeku, 2004). Amendments to key legislation, such as the NESREA Act and the Environmental Impact Assessment (EIA) Act, should specify minimum fines and non-negotiable remediation obligations tied to the scale and impact of the damage. Furthermore, laws should require that industries posing high environmental risks deposit environmental bonds or insurance guarantees before commencing operations. These financial instruments would ensure that cleanup and compensation costs are covered, even in the event of corporate insolvency or withdrawal<sup>106</sup>.

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<sup>105</sup> Adebayo T and Ojo A (n 3) 92-98

<sup>106</sup> Ebeku Kingsley Smith, *Oil, Environment and Politics in the Niger Delta* (n 4) 112-115.

### iii. Creating Specialized Environmental Courts and Tribunals

The Nigerian judiciary, overburdened and often lacking expertise in environmental law, is ill-equipped to handle complex pollution cases (Ibrahim, 2016). Establishing specialized environmental courts or tribunals would ensure that environmental disputes are adjudicated by judges with the requisite legal and scientific knowledge. These courts should operate under expedited procedures to prevent prolonged litigation and ensure timely redress for affected parties. In addition, court rulings should be binding, enforceable, and accompanied by mechanisms for monitoring compliance with judicial orders, such as periodic environmental audits<sup>107</sup>.

### iv. Enhancing Real-Time Environmental Monitoring and Data Transparency

The absence of credible data undermines the enforcement of the PPP. To address this, polluting industries must be mandated to install real-time environmental monitoring systems capable of tracking emissions, effluents, and other pollutants. This data should be transmitted to a centralized, publicly accessible digital platform managed by the independent enforcement authority. In addition, government agencies should invest in satellite surveillance and drone technology to monitor large, remote, and vulnerable areas such as the Niger Delta. Transparent and accessible environmental data not only deters misconduct but also empowers civil society to demand accountability<sup>108</sup>.

### v. Imposing Meaningful and Deterrent Penalties

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<sup>107</sup> Ibrahim Y, 'The Need for Specialized Environmental Courts in Nigeria' (2016) 7 Journal of Environmental Law and Practice 201

<sup>108</sup> UNEP, *Environmental Data Management: Technologies and Applications* (United Nations Publications 2011) 59-63.

Many environmental penalties currently imposed under Nigerian law are woefully inadequate and fail to serve as effective deterrents. Fines must be scaled to reflect the severity of environmental damage and the financial capacity of the offending entity. A tiered penalty structure should be introduced, with higher sanctions for repeat offenders, large-scale polluters, and cases involving willful misconduct. In the most egregious instances, criminal liability should extend to corporate executives and directors whose decisions lead to environmental harm. Only by introducing the possibility of personal liability can a true culture of corporate environmental responsibility be fostered<sup>109</sup>.

vi. Facilitating Access to Environmental Justice for Affected Communities

Marginalized communities most affected by pollution often lack the resources and knowledge to seek legal redress. Legal reforms must therefore prioritize access to justice. This includes establishing publicly funded environmental legal aid programs, training public interest environmental lawyers, and setting up mobile legal clinics in pollution-affected regions. Furthermore, procedural rules should be relaxed to allow for class actions, representative suits, and public interest litigation in environmental matters. These measures would ensure that even the most vulnerable citizens can invoke the PPP to demand accountability and restitution<sup>110</sup>.

vii. Expanding Public Participation and Transparency in Environmental Decision-Making

Effective environmental governance requires informed and active public participation. The government must institutionalize mechanisms for inclusive stakeholder engagement during project planning, licensing, and impact assessments. Public hearings must be mandatory, not

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<sup>109</sup>Ladan M T, 'Environmental Sanctions in Nigeria: A Critical Analysis' (2012) 10 Nigerian Law and Practice Journal.

<sup>110</sup>Amokaye O A (n 5) 52-54.

optional, for all high-risk industrial projects, and environmental reports should be made readily available in local languages and accessible formats. Whistleblower protections should also be legally guaranteed to encourage the reporting of environmental violations by insiders without fear of retaliation.

#### viii. Integrating Economic Incentives with Compliance Mechanisms

In addition to punitive measures, the government can incentivize environmental compliance by linking adherence to PPP principles with access to certain economic benefits. Companies with strong environmental records could receive tax relief, preferential access to government contracts, or public recognition. Conversely, persistent violators should face restricted access to public funding, loan guarantees, and operational licenses. Tying environmental responsibility to economic opportunity will encourage industries to internalize the true cost of pollution.

The Polluter Pays Principle, though present in Nigeria's environmental policy landscape, remains ineffective due to legal ambiguities, institutional incapacity, and systemic corruption. Implementing the above legal and institutional reforms would not only strengthen the principle's application but also contribute to broader goals of environmental justice, sustainable development, and public health protection. A functional PPP regime requires more than regulatory lip service; it demands a deliberate overhaul of the environmental governance architecture to ensure that pollution no longer goes unpunished, and that environmental harm is no longer an acceptable cost of doing business<sup>111</sup>.

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<sup>111</sup>OECD, *Environmental Performance Reviews: Nigeria* (OECD Publishing 2009) 78

#### 4.6 Comparative Analysis with global standards

The international baseline in PPP is embedded in major systems (EU treaties and directives; US Superfund; South Africa's NEMA; India's green jurisprudence). It typically shows up as

- (i) Strict/near-strict liability for environmental harm
- (ii) Cost-recovery plus mandatory remediation by polluters, and
- (iii) Economic instruments (levies, taxes, trading) that internalize environmental costs upstream<sup>112</sup>.

Nigeria today: PPP is recognized in framework laws and regulations and there are pockets of alignment.

But gaps remain in

- (i) Consistent strict liability plus cost recovery
- (ii) The level and certainty of economic penalties (e.g., gas flaring fees)
- (iii) Institutional capacity and coordination (NESREA/NOSDRA/NUPRC/), and data transparency and enforcement follow-through<sup>113</sup>.

The Polluter Pays Principle (PPP) requires that costs of preventing, controlling and remedying pollution are borne by the polluter. Internationally this is implemented through liability regimes (e.g., EU Environmental Liability Directive), strict cost-recovery statutes (e.g., US CERCLA/Superfund), and market/economic instruments. Nigeria implements PPP through

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<sup>112</sup>Jude O. Ezeanokwasa, 'Polluter-Pays Principle and the Regulation of Environmental Pollution in Nigeria' (2018) 70 Nigerian Journal of Environmental Law 45.

<sup>113</sup>Gina Elvis-Imo, 'An Analysis of the Polluter Pays Principle in Nigeria' (2021) 7 Law Journal 1.

sectoral laws, EPR rollouts and new upstream petroleum rules but with notable gaps in uniform strict liability, penalty design and collection<sup>114</sup>.

#### **4.6.1 Side-by-side similarities and differences on International practice with Nigeria**

##### 1. Similarities

- i. Policy alignment: Both Nigeria and international frameworks explicitly endorse the PPP as a guiding principle and use it to justify regulation (EPR, pollution control)<sup>115</sup>.
- ii. Use of EPR & permits: Both rely on producer responsibility schemes and permitting systems to shift costs to producers/operators.
- iii. Regulatory remedies: Authorities in both contexts can require remediation and impose fines/penalties (though scope and effectiveness differ).

##### 2. Key differences

- i. Horizontal strict liability vs sectoral approach: EU systems provide broad, cross-media liability (more predictable, often strict). Nigeria applies PPP mostly through sectoral instruments with lower uniformity<sup>116</sup>.
- ii. Economic instrument maturity: International models have diversified deterrence tools, effluent charges, indexed levies. Nigeria is scaling EPR but lacks the same breadth and automatic adjustment mechanisms.
- iii. Institutional capacity and transparency: Developed systems maintain public contaminated-site registries and stronger cost-recovery track records; Nigeria faces overlaps in agencies and lower transparency on penalty collection and remediation outcomes.

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<sup>114</sup> Henry Awodezi, *'The Polluter Pays Principle and the Rising Waves of Environmental Harm in Nigeria'* (2024) Unidel Publication

<sup>115</sup> Okparaibe Nyemachi, *'Polluter Pays Principle in Hydrocarbon Industries in African Countries: Challenges and Prospects'* (2023) *AJIEEL* 64

<sup>116</sup> Henry Awodezi, *ibid.*

### 3. Weak points: where Nigeria’s PPP implementation is vulnerable

- i. Patchy legal architecture: No single horizontal environmental-liability statute that uniformly imposes strict, cost-recovery obligations across water/land/air. This creates gaps for certain pollution types<sup>117</sup>.
- ii. Penalty design & collection: Penalties (e.g., for gas flaring) exist but studies and policy reviews show they can be insufficient to deter behaviour and hard to collect consistently.
- iii. Institutional fragmentation: Multiple regulators with overlapping remits complicate rapid response, cost recovery and public visibility of enforcement outcomes<sup>118</sup>.
- iv. Limited financial assurance: Mandatory bonds/insurance for high-risk operators are not uniformly required, increasing the risk that taxpayers/communities bear cleanup costs.

#### **4.6.2 Pros & cons — (A) Nigeria’s PPP approach**

##### **4.6.2.1 Pros**

- i. Contextual tailoring: Sectoral instruments (EPR for plastics, petroleum regulations) allow targeted rules where risks are concentrated<sup>119</sup>.
- ii. Active policy momentum: Recent rulemaking (EPR guidelines, NUPRC 2023 flaring regs) shows political will to strengthen PPP tools.
- iii. Improving public enforcement access: Judgments and reforms have broadened standing for environmental suits, enabling civil society to press enforcement.

##### **4.6.2.2 Cons**

- i. Inconsistent deterrence: Penalties and enforcement follow-through are uneven; reforms risk being symbolic without collection/enforcement upgrades.

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<sup>117</sup> Gina Elvis-Imo, *ibid*

<sup>118</sup> Jude O. Ezeanokwasa, *ibid*.

<sup>119</sup> Gina Elvis-Imo, *ibid*.

- ii. Fragmented legal regime: Lack of a unified liability statute makes litigation outcomes more complex and enforcement uneven.
- iii. Resource & data gaps: Limited public data on enforcement outcomes reduces accountability and weakens deterrence.

### **4.6.3 Pros & cons — (B) International PPP approach**

#### **4.6.3.1 Pros**

- i. High deterrence & predictability: Strict/joint & several liability and clear remedial obligations make polluters more likely to prevent harm and to finance cleanups.
- ii. Established cost-recovery mechanisms: Governments and private actors have clearer routes to recover remediation costs.
- iii. Diverse economic instruments: Broader toolbox (EPR, charges, markets) allows both prevention incentives and funding streams for restoration.

#### **4.6.3.2 Cons**

- i. Complexity and administrative cost: Implementing broad liability regimes and payment mechanisms demands institutions, monitoring, and funding to run effectively.
- ii. Equity concerns: Large strict liability actions can complicate allocation between multiple historical polluters; legal complexity (contribution actions) may follow.
- iii. Public funding sometimes still needed: Even in the EU, cohesion funds and temporary public support can appear to depart from strict internalization.

## CHAPTER FIVE

### SUMMARY, CONCLUSION AND RECOMMENDATIONS

#### 5.1 Summary

This study set out to examine the legal, ethical, and institutional application of the Polluter Pays Principle (PPP) within Nigeria's environmental law framework. It became clear that although Nigeria formally adopts the PPP in its statutes, regulatory policies, and judicial decisions, practical enforcement of the principle remains uneven and challenged. The legal framework comprising laws like the NESREA Act, Petroleum Industry Act, and NOSDRA Act incorporates PPP but lacks uniformity and explicit codification in some vital areas. Institutional weaknesses, including underfunding, overlapping mandates, limited technical capacity, and pervasive corruption, seriously weaken enforcement efforts. Judicial activism has fostered recognition of environmental rights linked to PPP, yet procedural and evidentiary hurdles persist for affected communities seeking remedies. Further, socio-political dynamics complicate equitable application, especially in oil-producing regions where environmental degradation disproportionately affects vulnerable populations.

#### 5.2 Conclusion

The Polluter Pays Principle is a foundational concept intended to shift environmental remediation costs onto those who pollute and thus promote sustainable management of natural resources. For Nigeria, PPP is both a legal and ethical imperative given the abundant environmental challenges linked to pollution, particularly in extractive industries. However, this study reveals that, despite promising legislative frameworks and landmark court decisions, the operationalization of PPP falls short. Regulatory agencies lack sufficient resources and

autonomy; corruption undermines enforcement; affected communities struggle to access justice; and multinational polluters often evade accountability. These realities dilute the principle's deterrent potential and raise questions about environmental justice and equity. Yet the principle's incorporation into constitutional rights jurisprudence and growing public discourse signals progress and potential. Nigeria stands at a crossroad to either reform and rigorously enforce PPP or perpetuate environmental harm and socio-economic inequalities. Strengthening PPP enforcement will require coordinated legal reforms, institutional empowerment, transparent monitoring, and inclusive stakeholder engagement to ensure that polluters genuinely bear the costs of environmental damage. Ultimately, PPP embodies the moral and legal commitment that environmental harm is not a cost society must bear, but a burden that must be shouldered by perpetrators. By realizing this commitment, Nigeria can advance towards sustainable development and ecological justice for its citizens and future generations.

### **5.3 Recommendations**

#### **i. Strengthening Legal Frameworks**

Codify PPP explicitly in Nigerian primary legislation (not just in policy documents or subsidiary laws).

Harmonize laws: Environmental regulations in Nigeria are fragmented under NESREA, DPR, NOSDRA, etc. A unified statute applying PPP consistently would close loopholes.

Judicial precedents: Encourage more judicial activism in applying PPP in environmental litigation to reinforce it as a binding principle.

## ii. Institutional Reforms

Enhance regulatory agencies' autonomy: NESREA and NOSDRA should be given financial and operational independence to enforce PPP without political interference.

Capacity building: Train regulators, courts, and even local government authorities on valuation of environmental harm, cost recovery, and liability standards.

Specialized environmental courts/tribunals: To handle PPP-related claims swiftly and reduce backlog.

## iii. Economic & Market-Based Mechanisms

Environmental taxes/levies: Establish sector-specific charges (oil, gas, cement, mining) that directly reflect pollution loads.

Insurance schemes: Mandate polluters to maintain environmental liability insurance so victims can be compensated quickly.

Pollution permits & tradable credits: Adopt mechanisms where industries must "pay" for emissions beyond certain thresholds, similar to EU Emissions Trading System.

## iv. Transparency & Accountability

Mandatory disclosure: Industries should publish annual environmental impact and remediation reports.

Community monitoring: Strengthen civil society and host communities' role in tracking pollution incidents.

Whistleblower protections: Safeguard insiders who expose environmental malpractice.

v. International Integration

Adopt international best models: Integrate PPP into trade and investment agreements to compel compliance by multinationals.

Access to global climate/environment funds: Tie Nigeria's PPP enforcement to carbon finance and green transition opportunities.

Cross-border cooperation: Pollution doesn't stop at borders—PPP should extend to transboundary contexts (e.g., Niger Delta pollution affecting Gulf of Guinea).

vi. Public Participation & Awareness

Environmental education: Embed PPP and environmental responsibility in school curricula and public campaigns.

Community rights: Empower host communities with legal standing to sue for damages under PPP.

CSR alignment: Make corporate social responsibility reports not just voluntary PR but tied to PPP compliance metrics.

vii. Technological and Scientific Support

Environmental audit systems: Deploy satellite monitoring, sensors, and real-time data to quantify pollution for cost recovery. Research funding: Support Nigerian universities to develop localized methods of valuing ecological damage.

Digital enforcement platforms: Public access to data on who polluted, how much, and how much was paid. In essence, improving PPP requires a mix of stronger laws, independent regulators, economic incentives, technological tools, and community empowerment.

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