

THE LAW AND ECO-JUSTICE IN NIGERIA: AN ANALYSIS*

Abstract

Eco-justice, which integrates environmental justice with social justice, is increasingly relevant in Nigeria given the country's dependence on natural resources, persistent environmental degradation and the disproportionate impact of ecological harm on vulnerable communities, particularly in the Niger Delta region and other littoral states. The study examines the concept of eco-justice within the framework of Nigerian law, detailing the extent to which existing legal, constitutional, statutory and judicial mechanisms promote environmental protection, ecological sustainability and equitable distribution of environmental benefits and burdens. Using doctrinal and analytical methodologies, the study analyses extant constitutional provisions, environmental statutes, international environmental instruments and judicial decisions to assess Nigeria's commitment to eco-justice. The study finds that although Nigeria possesses an elaborate body of environmental laws and policies, enforcement deficits, weak institutional capacity, corruption and the non-justiciability of environmental rights under the constitution significantly undermine eco-justice. It recommends constitutional reform, stronger enforcement mechanisms, enhanced access to justice, judicial activism and community participation as pathways towards achieving eco-justice in Nigeria.

Keywords: Eco-justice, Environmental Law, Sustainable Development, Human Rights, Nigeria

1. Introduction

From time immemorial, the environment stands as an essential basis of human survival, economic growth and social stability. For instance, in Nigeria, natural resources such as land, water, forests and mineral deposits are central to national development and revenue generation. However, the mindless exploitation of these resources particularly through oil and gas extraction, mining and large-scale agriculture has resulted in significant environmental degradation. Problems such as oil spills, gas flaring, deforestation, desertification and widespread pollution continue to threaten ecosystems and human wellbeing.¹ More critically, these environmental harms are unevenly distributed, disproportionately affecting rural and marginalized communities, especially in the Niger Delta region, where environmental damage coexists with economic deprivation.² This glaring problem influenced the concept of eco-justice to the forefront of environmental discourse. Furthermore, eco-justice extends beyond traditional environmental protection by emphasizing fairness, equity and human dignity in the distribution of environmental benefits and burdens. It goes to the fundamental questions about who profits from natural resources, who suffers environmental harm and how legal systems respond to such inequalities.³

In the Nigerian context, eco-justice is intrinsically linked to broader issues of human rights, sustainable development and governance. Consequently, the legal framework comprising constitutional provisions, statutes and judicial decisions play a pivotal role in addressing the seemingly environmental injustice. Despite the existence of an extensive body of environmental laws and regulatory institutions, environmental degradation in Nigeria persists at alarming levels. Weak enforcement mechanisms, institutional inefficiencies, corruption and limited access to justice continue to undermine the effectiveness of these laws.⁴ In addition, non-justiciability of environmental objectives under the Constitution further compounds the problems in restricting the ability of affected communities to seek legal redress.⁵ This gap between legal provisions and environmental realities raises critical concerns about the capacity of Nigerian law to achieve

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¹ CA Omaka and Others, *Municipal and International Environmental Law* (LUC Publishers Lagos 2012) 45.

² EO Akanki, 'Environmental Degradation in the Niger Delta' (2015) 3 *Nigerian Law Journal* 112.

³ Ibid.

⁴ FE Iyoha, 'Environmental Governance in Nigeria' (2012) 6 *Journal of Sustainable Development Law* 89.

⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 20.

eco-justice.⁶ Accordingly, this study examines the extent to which the Nigerian legal system promotes eco-justice and identifies pathways for reform.

2. The Problem and the Issue at Stake

Environmental governance has increasingly gained global significance as nations pass through challenge of economic development and ecological sustainability. In Nigeria, this challenge is particularly visible due to the country's heavy reliance on natural resource exploitation as a primary driver of economic growth. Since the discovery of crude oil, the Nigerian economy has been deeply shaped by extractive activities, especially in the Niger Delta and others. While these activities have generated substantial revenue, they have also produced far-reaching environmental consequences that continue to undermine local livelihoods and ecosystems.⁷ Historically, environmental regulation in Nigeria evolved in non-comprehensive and reactive manner, often in response to crises rather than through proactive planning. Early legal frameworks were primarily designed to facilitate resource extraction rather than to safeguard ecological integrity or protect affected communities.⁸ Over time, increased awareness of environmental degradation and its socio-economic implications led to the development of more structured environmental laws and institutions.⁹ However, these regulatory efforts have not sufficiently addressed the glaring issues of inequality and injustice embedded in environmental governance.

Despite the existence of numerous environmental laws and institutions in Nigeria, environmental degradation persists at alarming levels. Oil pollution in the Niger Delta, illegal mining, urban waste mismanagement, erosion and climate change impacts continue to threaten livelihoods and public health. The problem is compounded by weak enforcement, regulatory capture, limited access to justice and the constitutional non-justiciability of environmental objectives under Chapter II of the Constitution of the Federal Republic of Nigeria 1999 (as amended). Sequel to, affected communities often face significant barriers in seeking redress, including high litigation costs, technical legal requirements and judicial rascality. This raises critical questions about whether Nigerian law adequately ensures eco-justice or merely a formality to environmental protection. The central problem addressed by this study is the gap between Nigeria's environmental legal framework and the lived reality of ecological injustice and way out of the wood.

3. Conceptual and Theoretical Frameworks for Eco-Justice

Eco-justice is a normative concept that integrates ecological sustainability with social justice.¹⁰ It proceeds from the recognition that environmental harm is rarely value-neutral; rather, it is often distributed along lines of socio-economic vulnerability, political marginalization and structural inequality.¹¹ Environmental degradation disproportionately affects communities that lack political voice and economic power, thereby reinforcing cycles of poverty and exclusion.¹² Eco-justice therefore insists that environmental governance must address not only ecological protection but also distributive and procedural fairness. The emergence of eco-justice as a concept reflects a shift from purely regulatory approaches to more holistic considerations of fairness and accountability. It recognizes that environmental issues cannot be separated from questions of social justice, particularly in contexts where vulnerable populations are disproportionately exposed to environmental risks. Rural communities, women and economically disadvantaged groups often lack the political and legal capacity to influence decisions affecting their environment.¹³ Moreover, the

⁶ *ibid*, CFRN 1999, s 6(6)(c).

⁷ CA Omaka and others, *Municipal and International Environmental Law* (LUC Publishers Lagos 2012) 98.

⁸ EO Akanki, 'Environmental Regulation and Resource Control in Nigeria' (2014) 2 *Nigerian Environmental Law Review* 67.

⁹ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007.

¹⁰ CA Omaka and others, *Municipal and International Environmental Law* (LUC Publishers 2012) 45.

¹¹ F Nwoke, 'Environmental Justice and the Nigerian Legal System' (2015) 7 *UNIZIK Journal of Environmental Law* 118.

¹² EO Akanki, 'Environmental Degradation in the Niger Delta' (2015) 3 *Nigerian Law Journal* 112.

¹³ EI Alemika, 'Criminal Justice System and Respect for Human Rights: Problems and Imperative for Reform' [2011] (12) (2) *Human Rights Review* 30.

developmental challenges such as poverty, weak governance and climate change have intensified the urgency for a more inclusive and justice-oriented approach.¹⁴

The theoretical foundations of eco-justice may be traced to broader philosophical works of justice, particularly John Rawls' theory of justice as fairness.¹⁵ Rawls argues that social and economic inequalities are permissible only if they are arranged to the greatest benefit of the least advantaged members of society (the difference principle).¹⁶ When applied to environmental governance, this principle demands that environmental burdens such as pollution, waste disposal and climate impacts must not disproportionately fall upon marginalized communities.¹⁷ In the same view, environmental benefits, including access to clean water, safe housing and natural resources, should be equitably distributed.¹⁸ From a Rawlsian perspective, environmental injustice constitutes a structural failure to organize institutions in a manner that protects the least advantaged.¹⁹

Still more, eco-justice is also grounded in the doctrine of intergenerational equity.²⁰ This principle holds that present generations hold the environment in trust for future generations and are under an obligation to ensure that development today does not impair the ability of future generations to meet their own needs.²¹ The doctrine finds authoritative articulation in the Brundtland Report, which defines sustainable development as development that meets present needs without compromising future generations.²² Intergenerational equity thus transforms environmental protection from a discretionary policy objective into a moral and legal obligation grounded in stewardship and trusteeship.²³

The precautionary principle further strengthens the eco-justice framework.²⁴ The principle posits that where there is a risk of serious or irreversible environmental harm, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent degradation.²⁵ In effect, it shifts environmental governance from reactive remediation to proactive prevention.²⁶ Eco-justice embraces this principle because vulnerable communities often bear the brunt of delayed regulatory responses.²⁷ Waiting for definitive scientific proof before regulating hazardous activities frequently results in irreversible harm to those least equipped to absorb environmental shocks.²⁸ Environmental justice theory also informs eco-justice by emphasizing the right of all persons to a clean and healthy environment regardless of race, class or socio-economic status.²⁹ This approach integrates human rights discourse into environmental governance, thereby elevating environmental protection to the status of a fundamental entitlement.³⁰ The African Commission's decision in *Social and Economic Rights Action Centre (SERAC) v Nigeria*³¹ exemplifies this integration. The Commission held that environmental degradation resulting from oil exploitation violated the rights to health and to a satisfactory environment under the African Charter.³² The decision underscores the indivisibility of environmental human rights.

¹⁴ United Nations Framework Convention on Climate Change 1992.

¹⁵ J Rawls, *A Theory of Justice* (Harvard University Press, 1971).

¹⁶ *ibid.*, 75–83.

¹⁷ Nwoke (n 11).

¹⁸ Iyoha (n 4).

¹⁹ *ibid.*, Raw.

²⁰ *ibid.* 75–83.

²¹ Nwoke (n 11).

²² Iyoha (n 4).

²³ Rawls (n 15).

²⁴ CA Omaka and others (n 1) 98.

²⁵ *ibid.*

²⁶ World Commission on Environment and Development, *Our Common Future* (Oxford University Press 1987) 43.

²⁷ Omaka (n 1).

²⁸ United Nations Framework Convention on Climate Change 1992.

²⁹ Paris Agreement 2015.

³⁰ Omaka (n 1) 112–114.

³¹ (2001) AHRLR 60 (ACHPR).

³² *ibid.*

In Nigeria, eco-justice assumes particular urgency due to the country's history of extractive resource exploitation and environmental inequality.³³ Communities in oil-producing regions have long complained of environmental devastation without commensurate developmental benefits.³⁴ Oil spills, gas flaring and contamination of water sources have undermined livelihoods in fishing and farming communities, deepening poverty and social unrest.³⁵ The United Nations Environment Programme's Environmental Assessment of Ogoniland documented extensive environmental contamination with severe public health implications.³⁶ Such findings reinforce the Rawlsian critique that environmental governance structures have failed to protect the least advantaged.

Judicial developments in Nigeria reflect incremental movement toward eco-justice. In *Jonah Gbemre v Shell Petroleum Development Company Nigeria Ltd*,³⁷ the Federal High Court held that gas flaring violated constitutional rights to life and dignity when read in conjunction with the African Charter.³⁸ The decision demonstrates how constitutional interpretation can align domestic law with eco-justice principles. Similarly, in *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation*,³⁹ the Supreme Court expanded locus standi in environmental matters, thereby strengthening procedural justice by enabling public interest litigation.⁴⁰ Notwithstanding these developments, institutional weaknesses and enforcement deficits continue to undermine eco-justice in practice.⁴¹ The precautionary principle remains under-utilized in regulatory decision-making and climate governance frameworks are yet to fully internalize intergenerational obligations.⁴² Nigeria's commitments under the United Nations Framework Convention on Climate Change 1992 and the Paris Agreement 2015 signal normative acceptance of climate responsibility,⁴³ but domestic integration remains fragmented. In a nutshell, eco-justice synthesizes Rawlsian distributive justice, intergenerational equity and the precautionary principle into a coherent normative framework. It demands that environmental protection be pursued not merely as ecological conservation but as a matter of justice, rights and accountability.⁴⁴

4. Statutory Regime for Eco-Justice in Nigeria

Aside constitution, Nigeria has enacted numerous statutes aimed at environmental protection. Key among these are: the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007; the Environmental Impact Assessment Act Cap E12 LFN 2004, the Oil Pipelines Act Cap O7 LFN 2004 and the Petroleum Industry Act 2021.⁴⁵ The NESREA Act establishes NESREA as the principal agency responsible for enforcing environmental laws, standards and regulations. The Act empowers the agency to enforce compliance, conduct inspections and impose sanctions.⁴⁶ Similarly, the EIA Act mandates environmental impact assessments for projects likely to have significant environmental effects, thereby promoting preventive environmental governance. Despite this elaborate statutory framework, enforcement remains weak. Regulatory agencies are often underfunded, lack technical capacity or are compromised by political and corporate interests. As a result, environmental laws are frequently violated with impunity, undermining eco-justice.⁴⁷ This study shall examine the above laws thus:

³³ *ibid* art 24.

³⁴ Akanki (n 8).

³⁵ United Nations Environment Programme, *Environmental Assessment of Ogoniland* (2011).

³⁶ *ibid*.

³⁷ *Jonah Gbemre v Shell Petroleum Development Company Nigeria Ltd* (2005) AHRLR 151 (NgHC).

³⁸ *ibid*

³⁹ *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* (2019) 5 NWLR (Pt 1666) 518 (SC).

⁴⁰ *ibid*.

⁴¹ EI Alemika, 'Criminal Justice System and Respect for Human Rights: Problems and Imperative for Reform' (2011) 12(2) *Human Rights Review* 25.

⁴² Omaka (n 1).

⁴³ United Nations Framework Convention on Climate Change 1992; Paris Agreement 2015.

⁴⁴ Omaka (n 1).

⁴⁵ NESREA 2007; EIA Act, LFN 2004 and PI Act 2021.

⁴⁶ *ibid*, 2007, ss 7-8.

⁴⁷ F Nwoke, 'Environmental Justice and the Nigerian Legal System' (2015) 7 *UNIZIK Journal of Environmental Law*, 118.

Constitution of the Federal Republic of Nigeria 1999 (As Amended)

The Constitution of the Federal Republic of Nigeria 1999 (as amended) provides the foundational legal framework for environmental governance. Section 20 of the Constitution mandates the state to protect and improve the environment and safeguard water, air, land, forest and wildlife.⁴⁸ This provision reflects Nigeria's recognition of environmental protection as a state objective. However, section 20 is contained in Chapter II of the Constitution, which deals with Fundamental Objectives and Directive Principles of State Policy. By virtue of section 6(6)(c) of the Constitution, the provisions of Chapter II are generally non-justiciable.⁴⁹ This has significantly limited the enforceability of environmental obligations and undermined eco-justice. Nevertheless, Nigerian courts have occasionally adopted visible approaches to circumvent this limitation. By linking environmental protection to enforceable fundamental rights such as the right to life and dignity of the human person under Chapter IV, courts have expanded the scope for environmental justice.⁵⁰ This judicial creativity aligns with eco-justice ideals by prioritizing human wellbeing and ecological integrity.

National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007

The Act represents a cardinal instrument in Nigeria's environmental regulatory framework and a significant tool for advancing eco-justice. The Act establishes NESREA as the primary body responsible for enforcing environmental standards, regulations and compliance across the country.⁵¹ Its provisions reflect a shift towards institutionalized environmental governance aimed at protecting ecosystems and public health. Section 7 of the Act outlines the core functions of NESREA, including the enforcement of environmental laws, guidelines, and policies, as well as the coordination of environmental protection activities.⁵² This provision is crucial to eco-justice, as it empowers the agency to ensure that environmental burdens are not disproportionately imposed on vulnerable communities. Similarly, section 8 grants NESREA enforcement powers such as inspection, investigation and sanctioning of offenders, thereby strengthening accountability mechanisms.⁵³ Furthermore, section 20 prohibits the discharge of hazardous substances into the environment without lawful authorization, reinforcing pollution control and environmental safety.⁵⁴ The Act also promotes compliance with international environmental agreements, aligning Nigeria's domestic framework with global standards. Despite these strengths, the effectiveness of the Act is limited by enforcement challenges, including inadequate funding, institutional weakness and regulatory interference. These limitations undermine its capacity to fully realize eco-justice and sustainable environmental protection in Nigeria.

Environmental Impact Assessment Act, Cap E12 LFN 2004

The EIA Act is a fundamental statute for environmental protection and a key instrument for promoting eco-justice in Nigeria. The Act establishes a legal framework requiring that the environmental consequences of proposed projects be assessed before their implementation, thereby ensuring that development activities do not compromise ecological integrity or human wellbeing.⁵⁵ Section 2 of the Act makes it mandatory for public or private projects likely to have significant environmental effects to undergo an Environmental Impact Assessment (EIA) prior to approval.⁵⁶ This provision embodies the precautionary principle and supports eco-justice by preventing environmental harm before it occurs. Section 7 further requires that the assessment consider the potential environmental effects and alternatives to the proposed project, promoting informed and sustainable decision-making.⁵⁷ Importantly, section 14 provides for public participation in the

⁴⁸ CFRN 1999 (as amended), s 20.

⁴⁹ *ibid*, s 6(6)(c).

⁵⁰ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 LFN 2004, art 24; *Social and Economic Rights Action Centre v Nigeria* (2001) AHRLR 60 (ACHPR).

⁵¹ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007.

⁵² *ibid*, s 7.

⁵³ *ibid*, s 8.

⁵⁴ *ibid*, s 20.

⁵⁵ Environmental Impact Assessment Act Cap E12 LFN 2004.

⁵⁶ *ibid*, s 2.

⁵⁷ *ibid*, s 7.

EIA process, allowing affected communities to express their views and concerns.⁵⁸ This enhances procedural justice, a core element of eco-justice, by ensuring inclusiveness and transparency. Additionally, section 13 mandates the submission of an environmental impact statement to the relevant authority for review and approval.⁵⁹ Despite its progressive provisions, the Act faces challenges such as poor enforcement, inadequate monitoring and limited public awareness. These issues reduce its effectiveness in safeguarding environmental rights and achieving eco-justice in practice.

Harmful Waste (Special Criminal Provisions) Act, Cap H1 LFN 2004

The Act is a critical statute in Nigeria's environmental protection regime, specifically designed to address the illegal dumping and handling of hazardous waste. The Act emerged as a response to incidents of toxic waste importation and reflects Nigeria's commitment to safeguarding human health and the environment.⁶⁰ Its provisions strongly conform with eco-justice by criminalizing activities that disproportionately expose vulnerable communities to environmental harm. Section 1 of the Act expressly prohibits the carrying, depositing, or dumping of harmful waste on land, air, or water within Nigeria.⁶¹ This provision establishes strict liability for offenders and underscores the seriousness of environmental pollution. Section 6 further prescribes severe penalties, including life imprisonment and forfeiture of assets, for individuals or corporations found guilty of violating the Act.⁶² These stringent sanctions serve as a deterrent and promote accountability, which is essential for environmental justice.

Additionally, section 7 confers jurisdiction on the Federal High Court to try offences under the Act, ensuring that environmental crimes are addressed within a competent legal framework.⁶³ The Act also adopts a broad definition of harmful waste, covering toxic, radioactive, and other dangerous substances, thereby strengthening its protective scope. Despite its robust provisions, enforcement challenges and limited prosecution of offenders have weakened its practical impact in advancing eco-justice in Nigeria.

National Oil Spill Detection and Response Agency (Establishment) Act 2006

This Act is a key statute in Nigeria's environmental protection framework, particularly in addressing oil-related pollution. The Act establishes NOSDRA as the lead agency responsible for the detection, monitoring, and response to oil spills, especially in oil-producing regions such as the Niger Delta.⁶⁴ Its provisions are closely aligned with eco-justice, given the disproportionate impact of oil pollution on vulnerable host communities. Section 5 of the Act outlines the core functions of NOSDRA, including surveillance of oil spill incidents, coordination of response efforts, and enforcement of compliance with environmental standards in the petroleum sector.⁶⁵ This provision is central to environmental protection as it ensures prompt intervention to mitigate environmental damage. Section 6 empowers the Agency to establish guidelines and standards for oil spill management and remediation, thereby promoting accountability among oil operators.⁶⁶ Furthermore, section 19 imposes liability on operators for oil spill incidents and mandates immediate reporting and clean-up, reinforcing the 'polluter pays' principle, which is fundamental to eco-justice.⁶⁷ The Act also enhances institutional coordination by requiring collaboration with other relevant agencies and stakeholders. However, challenges such as delayed response, inadequate funding, and weak enforcement mechanisms continue to hinder the effectiveness of the Act in fully addressing environmental harm in Nigeria.

⁵⁸ *ibid*, s 14.

⁵⁹ *ibid*, s 13.

⁶⁰ Harmful Waste (Special Criminal Provisions) Act Cap H1 LFN 2004.

⁶¹ *ibid*, s 1.

⁶² *ibid*, s 6.

⁶³ *ibid*, s 7

⁶⁴ National Oil Spill Detection and Response Agency (Establishment) Act 2006.

⁶⁵ *ibid*, s 5.

⁶⁶ *ibid*, s 6.

⁶⁷ *ibid*, s 19.

Petroleum Industry Act 2021

The Act⁶⁸ significantly reforms Nigeria's oil and gas legal framework by embedding environmental and community obligations into upstream petroleum operations, aiming to balance economic activities with ecological sustainability and social justice. The Act mandates environmental responsibility as a core condition for licensing and operations. Under Section 103,⁶⁹ before a licence or lease can be granted, a licensee or lessee must make a financial contribution to an Environmental Remediation Fund, which is used for rehabilitation or management of negative environmental impacts associated with petroleum activities. If the operator fails to carry out remediation, the Nigeria Upstream Petroleum Regulatory Commission (NUPRC) may apply the fund to manage environmental damage itself.⁷⁰ The Act also requires operators to prepare Environmental Management Plans (EMPs) and conduct comprehensive Environmental Impact Assessments (EIAs) as part of pre-operation approval processes, promoting proactive risk identification and mitigation⁷¹. These provisions ensure that environmental considerations are integral to petroleum development rather than afterthoughts.⁷² Beyond environmental remediation, the PIA embeds host community development within its legal structure. Sections 235–257⁷³ establish Host Communities Development Trusts (HCDTs) that are funded by settlers (operators) through mandatory annual contributions (typically 3% of operating expenditure). These trusts are mandated to finance sustainable socio-economic and environmental initiatives in communities affected by petroleum operations, including environmental protection projects, health, education, and infrastructure.⁷⁴ Additionally, Section 104 restricts gas flaring by making it illegal except in specific, regulated circumstances and channels fines from flaring penalties toward environmental remediation and host community relief, aligning industry practice with environmental justice objectives.⁷⁵ These provisions collectively reflect the Act's goal of ensuring that petroleum operations contribute to both ecological restoration and equitable community development.

5. International Environmental Law and Eco-Justice in Nigeria

International environmental law plays a significant role in shaping eco-justice in Nigeria by providing normative standards and legal obligations that guide domestic environmental governance. Nigeria is a party to several key international instruments, including the African Charter on Human and Peoples' Rights, the Convention on Biological Diversity, and the United Nations Framework Convention on Climate Change.⁷⁶ These instruments collectively promote environmental protection, sustainable development, and the equitable distribution of environmental benefits and burdens. The African Charter on Human and Peoples' Rights is particularly significant because it has been domesticated into Nigerian law through the African Charter (Ratification and Enforcement) Act Cap A9 LFN 2004.⁷⁷ Article 24 of the Charter guarantees the right of all peoples to a general satisfactory environment favourable to their development.⁷⁸ This provision directly aligns with the principles of eco-justice by linking environmental protection with human rights and social equity. Nigerian courts have relied on the Charter to advance environmental justice and hold both state and corporate actors accountable. A notable example is *Social and Economic Rights Action Centre (SERAC) v Nigeria*, where the African Commission held that environmental degradation caused by oil activities violated the rights of affected communities.⁷⁹ This decision underscores the role of international law in reinforcing environmental accountability and protecting vulnerable populations.

⁶⁸ Petroleum Industry Act 2021

⁶⁹ *ibid.*, s.103 (1)(4).

⁷⁰ *ibid.*

⁷¹ *ibid.*

⁷² *Petroleum Industry Act, 2021 and its Impacts on Environmental Sustainability in Nigeria*, SabiLaw.

⁷³ *ibid.*, ss 235, 239.

⁷⁴ *ibid.*

⁷⁵ *Petroleum Industry Act (PIA) Environmental and Gas Flaring Provisions*, (blog.nigerianbar.org.ng) <accessed on> 15 February 2026.

⁷⁶ Convention on Biological Diversity 1992; United Nations Framework Convention on Climate Change 1992.

⁷⁷ African Charter (Ratification and Enforcement) Act Cap A9 LFN 2004.

⁷⁸ *ibid.*, art 24.

⁷⁹ (2001) AHRLR 60 (ACHPR).

Furthermore, global instruments such as the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change impose obligations on Nigeria to conserve biodiversity and address climate change impacts.⁸⁰ These obligations contribute to intergenerational equity, a core component of eco-justice. However, the effectiveness of international environmental law in Nigeria is often constrained by weak implementation and limited political will. Despite this, international legal frameworks remain vital tools for strengthening eco-justice and promoting sustainable environmental governance.

6. Judicial Attitude to Eco-Justice in Nigeria

The judiciary plays a pivotal role in advancing eco-justice in Nigeria, particularly in addressing environmental degradation in oil-producing regions such as the Niger Delta and Ogoniland. Nigerian courts have developed a growing body of jurisprudence on environmental justice, especially in cases involving oil pollution and human rights violations. In *Shell v Farah*, the court affirmed corporate liability for environmental harm caused by oil operations.⁸¹ Similarly, in *Shell Petroleum Development Company v Isaiah*, the Supreme Court upheld the award of damages for oil spill pollution, reinforcing the principle that polluters must compensate affected communities.⁸² A significant breakthrough occurred in *Centre for Oil Pollution Watch v NNPC*, where the Supreme Court relaxed the doctrine of locus standi, thereby allowing public interest litigation in environmental matters.⁸³ This decision expanded access to justice and strengthened eco-justice. In *Gbemre v Shell Petroleum Development Company*, the Federal High Court held that gas flaring violates fundamental human rights, linking environmental protection to constitutional rights.⁸⁴ Other important cases include *Oronto Douglas v Shell*, which challenged environmental degradation in the Niger Delta;⁸⁵ *SERAC v Nigeria*, where the African Commission found Nigeria in violation of environmental and socio-economic rights in Ogoniland;⁸⁶ and *Chief Gani Fawehinmi v Abacha*, which affirmed the enforceability of the African Charter in Nigeria.⁸⁷ Further judicial authorities such as *Shell v Tiebo VII*,⁸⁸ *Elf Petroleum v Umah*,⁸⁹ and *Okpabi v Royal Dutch Shell*,⁹⁰ have contributed to the development of environmental accountability, including transnational corporate liability. Despite these progressive decisions, challenges such as judicial conservatism, delays and technicalities persist, often undermining effective remedies. Nonetheless, the increasing willingness of courts to adopt a rights-based approach signals progress toward entrenching eco-justice in Nigeria.

7. Challenges and Prospects of Eco-Justice in Nigeria

The realization of eco-justice in Nigeria is confronted by numerous structural, legal and institutional challenges. Eco-justice, broadly understood as the equitable distribution of environmental benefits and burdens together with effective access to remedies for environmental harm, finds normative support within Nigeria's constitutional and statutory framework. Section 20 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) obliges the State to protect and improve the environment and safeguard the nation's natural resources.⁹¹ However, by virtue of section 6(6)(c), the provisions of Chapter II remain non-justiciable, thereby weakening their enforceability.⁹² This constitutional limitation has created a persistent gap between environmental aspiration and legal reality. Aside the foregoing, the study observes the following as the major challenges to eco-justice and environmental protection in Nigeria.

⁸⁰ Convention on Biological Diversity 1992; United Nations Framework Convention on Climate Change 1992.

⁸¹ (1995) 3 NWLR (Pt 382) 148.

⁸² (2001) 11 NWLR (Pt 723) 168.

⁸³ (2019) 5 NWLR (Pt 1666) 518 (SC).

⁸⁴ (2005) AHRLR 151 (NgHC).

⁸⁵ (1999) 2 NWLR (Pt 591) 466.

⁸⁶ (2001) AHRLR 60 (ACHPR).

⁸⁷ (2000) 6 NWLR (Pt 660) 228 (SC).

⁸⁸ (2005) 9 NWLR (Pt 931) 439.

⁸⁹ (2018) 10 NWLR (Pt 1627) 428 (SC).

⁹⁰ (2021) UKSC 3.

⁹¹ Constitution of the Federal Republic of Nigeria 1999 (as amended) s 20.

⁹² CFRN 1999 (as amended) s 6(6)(c).

Weak Enforcement of Environmental Laws

One of the most fundamental obstacles to eco-justice is the persistent weak enforcement of environmental laws notwithstanding the existence of a relatively comprehensive statutory framework. Nigeria has enacted several environmental statutes, including the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 and the Environmental Impact Assessment Act Cap E12 LFN 2004.⁹³ These statutes impose clear environmental obligations and regulatory duties and empowers the Agency to enforce environmental standards, monitor compliance and prosecute offenders.⁹⁴ Similarly, the Environmental Impact Assessment Act requires prior assessment of projects likely to have significant environmental impact.⁹⁵ In theory, these statutory safeguards should prevent ecological degradation. In practice, however, enforcement has been inconsistent and largely ineffective. The oil and gas sector illustrates this enforcement deficit. Despite regulatory provisions governing gas flaring and pollution control under the Petroleum Industry Act 2021,⁹⁶ environmental infractions continue with limited sanctions.⁹⁷

Institutional Incapacity and Inadequate Funding

Closely linked to weak enforcement is the problem of institutional incapacity and inadequate funding. Environmental agencies often lack technical expertise, manpower and financial resources required to monitor compliance effectively.⁹⁸ The absence of modern monitoring equipment and laboratory facilities further constrains enforcement. Scholarly commentary confirms that regulatory inefficiencies significantly undermine environmental governance in Nigeria.⁹⁹ Without adequate funding and institutional autonomy, environmental agencies are unable to carry out their statutory mandates effectively.¹⁰⁰ Consequently, harmful activities in extractive persist.

Corruption and Regulatory Capture

Another significant challenge is corruption and regulatory capture. Powerful multinational corporations operating in extractive industries frequently exert undue influence over regulatory processes.¹⁰¹ This influence has resulted in selective enforcement and, in some instances, deliberate regulatory inertia.¹⁰² The Supreme Court's decision in *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation*¹⁰³ reflects judicial recognition of public interest standing in environmental matters. The Court held that civil society organizations possess locus standi to institute environmental actions in the public interest.¹⁰⁴ While this decision expands access to justice, it does not eliminate systemic corruption or political interference in environmental regulation. The African Commission's decision in *Social and Economic Rights Action Centre (SERAC) v Nigeria*¹⁰⁵ further illustrates how environmental degradation may amount to human rights violations. The Commission found that Nigeria violated Articles 16 and 24 of the African Charter by failing to prevent environmental harm in Ogoniland.¹⁰⁶

Poverty and Socio-Economic Inequality

Poverty and socio-economic inequality further impede eco-justice in Nigeria. Communities most affected by environmental degradation often lack financial capacity, legal awareness and organizational strength to pursue environmental claims.¹⁰⁷ The cost of litigation, coupled with the technical complexity of

⁹³ NSREA, Act 2007.

⁹⁴ Environmental Impact Assessment Act Cap E12 LFN 2004.

⁹⁵ NESREA Act 2007 s 7.

⁹⁶ EIA Act Cap E12 LFN 2004 s 2.

⁹⁷ Petroleum Industry Act 2021 s 103.

⁹⁸ EO Akanki, 'Environmental Degradation in the Niger Delta' (2015) 3 *Nigerian Law Journal* 112.

⁹⁹ FE Iyoha, 'Environmental Governance in Nigeria' (2012) 6 *Journal of Sustainable Development Law* 89.

¹⁰⁰ EO Akanki, 'Environmental Regulation and Resource Control in Nigeria' (2014) 2 *Nigerian Environmental Law Review* 67.

¹⁰¹ F Nwoke, 'Environmental Justice and the Nigerian Legal System' (2015) 7 *UNIZIK Journal of Environmental Law* 118.

¹⁰² CA Omaka and others, *Municipal and International Environmental Law* (LUC Publishers 2012) 98.

¹⁰³ (2019) 5 NWLR (Pt 1666) 518 (SC).

¹⁰⁴ *ibid.*

¹⁰⁵ *Social and Economic Rights Action Centre (SERAC) v Nigeria* (2001) AHRLR 60 (ACHPR).

¹⁰⁶ *ibid* art 24.

¹⁰⁷ Nwoke (n 11).

environmental disputes, places effective remedies beyond the reach of many victims. In *Jonah Gbemre v Shell Petroleum Development Company Nigeria Ltd.*,¹⁰⁸ the Federal High Court held that gas flaring violated constitutional rights to life and dignity when read alongside the African Charter.¹⁰⁹ Although the judgment was progressive, enforcement challenges persisted. The case highlights the structural barriers that prevent affected communities from enjoying substantive eco-justice.

Limited Access to Justice

Limited access to justice remains a major impediment. While Nigerian courts have made progress in relaxing the doctrine of locus standi, procedural technicalities, prolonged delays and evidentiary burdens still frustrate environmental litigation.¹¹⁰ Legal rights often exist in theory but remain unattainable in practice. The decision in *Centre for Oil Pollution Watch v NNPC*¹¹¹ marks a significant development by broadening standing requirements. Nonetheless, environmental litigation remains protracted and costly. Many rural communities lack access to competent legal representation or expert evidence necessary to substantiate claims.

Climate Change and Emerging Challenges

Emerging climate change impacts present new and complex challenges to eco-justice. Nigeria is highly vulnerable to flooding, desertification, coastal erosion and food insecurity.¹¹² These impacts disproportionately affect vulnerable populations, including rural dwellers, women and children. Nigeria is a party to the United Nations Framework Convention on Climate Change 1992¹¹³ and the Paris Agreement 2015.¹¹⁴ Despite these international commitments, domestic implementation remains fragmented. The absence of an integrated climate justice framework weakens Nigeria's capacity to address intergenerational equity effectively. Climate-induced displacement and environmental insecurity further complicate resource governance. Without comprehensive legislative integration of climate obligations into domestic law, eco-justice remains inadequately.

8. Prospects for Eco-Justice

Notwithstanding these challenges, prospects for eco-justice in Nigeria are emerging. First, judicial activism is gradually strengthening environmental rights. The expansion of locus standi in *Centre for Oil Pollution Watch v NNPC*¹¹⁵ enhances public interest litigation and accountability. Second, incorporation of the African Charter into domestic law through the African Charter (Ratification and Enforcement) Act Cap A9 LFN 2004¹¹⁶ provides a normative bridge between human rights and environmental protection. Article 24 guarantees the right to a satisfactory environment.¹¹⁷ Third, legislative reforms under the Petroleum Industry Act 2021 introduce host community development mechanisms intended to promote equitable benefit-sharing.¹¹⁸ If effectively implemented, these reforms could reduce environmental conflict and promote distributive justice. Fourth, transnational litigation such as *Okpabi v Royal Dutch Shell Plc*¹¹⁹ signals growing judicial willingness to scrutinize corporate environmental responsibility beyond national borders. Such developments may strengthen corporate accountability mechanisms.

¹⁰⁸ (2005) AHRLR 151.

¹⁰⁹ *ibid.*

¹¹⁰ EI Alemika, 'Criminal Justice System and Respect for Human Rights: Problems and Imperative for Reform' (2011) 12(2) *Human Rights Review* 25.

¹¹¹ Centre for Oil Pollution Watch (n 39).

¹¹² United Nations Environment Programme, *Environmental Assessment of Ogoniland* (2011).

¹¹³ United Nations Framework Convention on Climate Change 1992.

¹¹⁴ Paris Agreement 2015.

¹¹⁵ Centre for Oil Pollution Watch (n 39).

¹¹⁶ African Charter (Ratification and Enforcement) Act Cap A9 LFN 2004.

¹¹⁷ *ibid* art 24.

¹¹⁸ Petroleum Industry Act 2021 ss 235, 239.

¹¹⁹ (2021) UKSC 3.

In addition, increased environmental awareness, civil society activism and technological innovation in environmental monitoring create opportunities for enhanced transparency and compliance. Eco-justice in Nigeria is shaped by a normative aspiration and structural reality. While constitutional provisions, statutory frameworks and judicial precedents provide a foundation for environmental justice, enforcement deficits, institutional incapacity, corruption, poverty, limited access to justice and fragmented climate governance remain formidable barriers. The path forward requires strengthening regulatory institutions, enhancing judicial efficiency, promoting transparency and integrating climate justice into domestic law. With sustained political will and societal commitment, Nigeria can progressively transform eco-justice from an aspirational ideal into an enforceable and lived reality.

9. Conclusion and Recommendations

Eco-justice has emerged as an indispensable framework for addressing the complex relationship between environmental protection, human rights and social equity in Nigeria. The study has demonstrated that environmental degradation in Nigeria is not merely an ecological problem but a profound justice issue that disproportionately affects vulnerable and marginalized communities, particularly those in resource-rich regions such as the Niger Delta.¹²⁰ The persistence of pollution, land degradation and ecological loss reflects deep structural failures in environmental governance. The analysis reveals that although Nigeria possesses an extensive body of constitutional provisions, statutes and international obligations aimed at environmental protection, the realization of eco-justice remains severely constrained.

The non-justiciability of environmental objectives under Chapter II of the Constitution of the Federal Republic of Nigeria 1999 (as amended) has significantly weakened the enforceability of environmental rights and state accountability.¹²¹ This constitutional limitation has created a gap between environmental ideals and legal remedies available to affected communities. Furthermore, the study establishes that weak enforcement mechanisms, institutional incapacity and regulatory capture have undermined the effectiveness of Nigeria's environmental laws.¹²² Regulatory agencies often lack the resources and autonomy required to discharge their statutory mandates, while powerful economic interests frequently evade liability for environmental harm. This has resulted in a culture of impunity that is fundamentally incompatible with eco-justice. Judicial intervention has offered some hope for advancing eco-justice, particularly through the domestication and application of the African Charter on Human and Peoples' Rights and the gradual recognition of environmental dimensions of fundamental human rights.¹²³

However, inconsistent judicial attitudes, procedural technicalities and delays continue to limit the transformative potential of the courts in environmental matters. In light of increasing environmental degradation and the growing threat of climate change, the need for an eco-justice-oriented legal framework in Nigeria has become more urgent. Climate impacts such as flooding, desertification and food insecurity further expose the inadequacy of existing legal responses and underscore the necessity of integrating climate justice and intergenerational equity into Nigeria's environmental governance framework.¹²⁴ While Nigeria has taken important steps toward environmental regulation, the achievement of eco-justice requires more than legislative proliferation. It demands constitutional reform, effective enforcement, judicial courage and meaningful community participation. Without these, environmental law in Nigeria will remain largely symbolic, and eco-justice will continue to elude those who need it most.

To strengthen eco-justice and environmental governance in Nigeria, this study makes the following recommendations: There is a need to amend the Constitution to make environmental rights enforceable. Currently, environmental provisions under Chapter II are non-justiciable, limiting access to remedies.

¹²⁰ United Nations Environment Programme, *Environmental Assessment of Ogoniland* (2011).

¹²¹ CFRN 1999 (as amended), ch II.

¹²² National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007.

¹²³ African Charter (Ratification and Enforcement) Act Cap A9 LFN 2004; *Social and Economic Rights Action Centre (SERAC) v Nigeria* (2001) AHRLR 60 (ACHPR).

¹²⁴ United Nations Framework Convention on Climate Change 1992.

Elevating the right to a clean and healthy environment to a fundamental right would empower citizens and courts to demand accountability and promote eco-justice. Agencies such as the National Environmental Standards and Regulations Enforcement Agency (NESREA) and the National Oil Spill Detection and Response Agency (NOSDRA) require adequate funding, technical expertise, and institutional independence. Strengthening these bodies will enhance monitoring, compliance, and enforcement of environmental laws, thereby reducing impunity among violators. The judiciary should adopt a more proactive and rights-based approach in environmental cases. Relaxing procedural barriers, particularly locus standi, will enable individuals, civil society organizations, and affected communities to seek redress. This will build on progressive decisions that have expanded access to environmental justice. Local communities, especially those in the Niger Delta, should be actively involved in environmental governance. Mechanisms for consultation, consent, and participation must be strengthened to ensure that development projects do not undermine local livelihoods and environmental sustainability. Nigeria should incorporate climate justice principles into its environmental laws and policies. This includes addressing the disproportionate impact of climate change on vulnerable populations, promoting sustainable resource management, and aligning domestic laws with international climate obligations. Such integration will ensure a more holistic and equitable approach to environmental protection.