NIGERIA`S OIL POLLUTION COMPENSATION FRAMEWORK: ASSESSING THE IMPACT OF THE PETROLEUM INDUSTRY ACT 2021*

Abstract

Nigeria`s oil discovery in 1956 kickstarted a lucrative industry and wealth, but it has also led to unprecedented environmental degradation and damage to private individuals` properties in respect of which compensation is rarely paid or not fairly done. The country has a system for compensating oil pollution damage, but it is inadequate and ineffective, failing to provide prompt, adequate and fair compensation to affected individuals if it ever offers anything at all, leading to recurrent tension and restiveness in the Nigeria`s oil-producing areas. Petroleum Industry Act was enacted in 2021 with the aim of comprehensively and satisfactorily addressing various challenges in the Nigeria`s oil sector, including the long-standing issue of compensation for oil pollution damage. This paper assessed the Petroleum Industry Act`s provisions on compensation for oil pollution damage, benchmarking them against international standards to gauge their adequacy and impact, utilizing a doctrinal research approach of reviewing relevant laws and literature on oil pollution control and compensation to inform its analysis and findings of the Petroleum Industry Act. The findings of the paper revealed that the Petroleum Industry Act failed to address individual compensation, instead focusing on host communities` development through 3% annual profit allocation to a trust fund for the benefit of host oil-producing communities. The paper, therefore, recommended an amendment of the Act to make provisions for explicit for individual compensation, including creation of a specialized administrative body to oversee and implement such compensation in line with international practice of the International Oil Pollution Compensation Fund.

Keywords: Oil Pollution, Compensation, Petroleum Industries Act 2021, Nigeria

1. Introduction

Nigeria, like Venezuela, Canada, Russia, Algeria, Libya, Egypt, Angola and few other countries of the world, is a prominent oil and gas producing nation.[1] The country runs a monolithic economy with heavy reliance on oil and gas production. When she discovered her oil and gas reserves in commercial quantities in 1956,[2] she hurriedly developed the discovered oil fields, and as early as 1958, her shipment of oil to Europe had commenced.[3] The products have been playing important role in Nigeria`s development and sustenance, especially in terms of provision and development of infrastructure as well as national economy.[4] Between 1962 (just two years after the country`s attainment of political independence) and now, relying on proceeds from crude oil exploration, Nigeria has formulated and launched six (6) National Development Plans (National Economic Policies) for economic growth and development of the country in quick succession of 1962, 1970, 1975, 1981, 1988 and 2021.[5]

Nigeria has made a great economic breakthrough and success through oil and gas production. This economic breakthrough and success that the country have achieved have also sparked a surge of activities in her petroleum industry, leading to immense pressure on the country`s natural environment, especially, in terms

***By Toyin Afolabi MAJEKODUNMI, MPhil (OAU, Ile-Ife), LLM (OOU, Ago-Iwoye), LLB, BL, BA (English),** Department of Jurisprudence and International Law, Faculty of Law, Olabisi Onabanjo University, Ago-Iwoye, Ogun State of Nigeria. E-mail: majekodunmi.toyin@oouagoiwoye.edu.ng, Tel: 08038930977.

[1] A. Ladi-Kazeem, 'History of the Nigerian Petroleum Industry', [2020], *Linkedin*, <https://www.linkedin.com> accessed 23 March 2023.

[2] Oil was discovered in a town known as Oloibiri which is under the present Bayelsa State.

[3] Nigerian National Petroleum Corporation, 'History of the Nigerian Petroleum Industry', [2018], NNPC Report, <http://www.nnpcgroup.com> accessed 21 September 2023.

[4] M.A. Ajomo, *Oil Law in Nigeria,* (Lagos, Evans Brothers Ltd., 1972) 154.

[5] M.S. Shuaibu, 'Trends and Nature of National Development Planning in Nigeria', [2020], *Research Gate*, <https://www.researchgate.net>, accessed 24 March 2023.

of acute oil and gas pollution,[6] This is because the toxic releases from hydrocarbon extraction are huge sources of deadly pollutants like Sulphur dioxide (SO2), Nitrous oxide (NOx), Chlorine, Fluorine, Carbons and others that birth the dreaded environmental concerns like climate change, biodiversity loss, ozone layer depletion, acid rain and other environmental problems with global effects. There is hardly one month that passes without information being disseminated on the website[7] of the National Oil Spill Detection and Response Agency (NOSDRA), an agency of the Federal Government) in respect of incidents of oil pollution in Nigeria.

In the history of oil and gas pollution in Nigeria, and despite the persistent restiveness and agitations often escalating into militancy, armed struggle and kidnaping of oil companies and government officials that Nigeria is frequently experiencing due to lack of realization of fair, adequate or prompt compensation for the destruction caused to the host communities` properties by oil pollution,[8] Nigeria has not deemed it important to enact a primary law that will, exclusively, address compensation for damage resulting from petroleum spills. The country is yet to formulate one national policy for compensation for oil pollution damage, and there is not establishment of any regulatory institution or administrative authority to either implement policy or enforce any law on compensation.

Some laws are, however, usually adapted for compensation for oil pollution damage. These include the Oil Pipelines Act (OPA).[9] Section 11, 19 and 20 of the Act are, usually, adapted for oil spill losses` indemnification. There is the Minerals and Mining Act (MMA), 2007. Its section 125 (a) contains relevant provisions to make a case for relief to oil spill victims. Provisions of the Land Use Act (LUA)[10] are, also, applied for compensation for oil pollution damage. None of these Acts was originally or primarily enacted to deal with compensation for oil pollution damage. They are merely, adapted to suit that purpose when the need arises. Compensation just happens to be a matter incidental to their respective original and primary purposes or objectives.

The country`s system for compensating oil pollution damage is grossly ineffective, rarely resolving compensation matters to anyone`s satisfaction, if it offers resolution at all.[11] The frequent unrest in the oil-producing communities over failure to secure compensation for oil pollution damage underscores the system inefficiency. A system can only be deemed effective if it is succeeding in fulfilling the purpose for which it was created.

Petroleum Industry Act was enacted in 2021 with the objective of comprehensively addressing the various challenges plaguing Nigeria`s oil industry, especially compensation for oil pollution damage. This paper assesses the effectiveness of the Petroleum Industry Act in enhancing Nigeria`s compensation framework for oil pollution damage, evaluating whether the legislation has achieved its intended objectives.

2. Compensation for Oil Pollution Damage

Compensation refers to the payment or reparation made to an individual, organization, or community for a loss, injury, or damage suffered, often as a result of wrongful act, breach of contract, or environmental

[6] A.A. Owolabi, 'An Examination of the Legal Framework for the Control and Management of Oil Pollution in Nigeria', [2003], Vol. 45 (1), *Indian Law Institute*, 38-61, 41.
[7] <https://nosdra.gov.ng>
[8] Ibid, n. 46.
[9] Cap O7 LFN 2004; and which is, primarily, an Act making provision for licences to be granted for the establishment and maintenance of pipelines which is incidental and supplementary to oilfields and oil mining and for purposes ancillary to such pipelines.
[10] Cap L5 LFN 2004, sections 29 and 30.
[11] Report: The Nigerian Oil Spill Compensation Regime – Obstacles and Opportunities, *SDN*, Available at stakeholderdemocracy.org, accessed 19 July 2023.

degradation.[12] It may may also be used as a punitive measure in order to deter. In Nigeria, compensation for oil pollution damage is not, exactly, provided for by any specific law. However, some statutes are, usually, adapted for it when a cause of action arises thereon. Some of these statutes include the Oil Pipelines Act,[13] the Mineral and Mining Act of 2007, and the Land Use Act.[14] These statutes merely contain passing comments or tangential contents as regards compensation for oil pollution damage. They, however, provide somewhat accidental or haphazard framework for seeking compensation for oil pollution damage, and are often relied upon by communities and individuals affected by oil spills to seek a redress. In addition, Nigerian courts have also developed Common Law principles like the torts of negligence, nuisance, trespass and the rule in *Rylands v. Fletcher* to hold oil companies accountable for oil pollution damage.

The system of compensation for oil pollution damage in Nigeria is self-evolving, and a product of avalanche of many adapted oil industry statutes. The system/arrangement has not proved to be effective, as it rarely resolves compensation for oil pollution damage to the satisfaction of anyone, if at all it offers anything. Compensation for oil pollution damage has remained a challenging subject, with many communities and individuals facing difficulties in accessing fair, adequate and prompt compensation; yet, incident of oil pollution has continued relentlessly. There is, hardly, any month passing that information of oil spill, causing damage, is not reported on the portal of NOSDRA, which is a national agency.

3. Framework for Compensation for Oil Pollution Damage in Nigeria

There is no law that is specifically enacted for compensation for oil pollution damage in Nigeria. However, there are some laws that are usually adapted for by court when matters of compensation for oil pollution damage arise. These include Oil Pipelines Act[15] which mandates anyone who is issued a license to search for oil by virtue of the Act`s provisions[16] to be reasonably careful in order to avoid unwarranted destruction to other people`s land including such properties like buildings, planted cash crops or any other trees on a land from which profit may be generated. Where such land, building/structure, cash crops or profit generating trees, belonging to any individual, is injuriously affected by the activities of pipe-laying of a license holder, and such injurious affection is not remedied, then the land owner should be awarded adequate damages. The legal position of the Act on issue of compensation for harm caused by oil pollution from oil pipelines of an oil company was enunciated in *Sam Ikpede v. Shell Petroleum Development Company Nigeria Limited*[17] where it was held that oil companies authorized under the federal law regulating operations in the sector to search for crude oil in Nigeria can only lay pipes transporting such crude oil as specified by the law or instrument under which they were authorized to operate.

Section 20 (5) of the Oil Pipelines Act stipulates that, when assessing compensation under section 11 (5), the court shall apply the relevant provisions of the Land Use Act (to the extent they are applicable and do not conflict with the Oil Pipelines Act) as if the land or interests in question were being acquired by the government for public purposes. Section 29 of the Land Use Act, which may be adapted (in line with section 20 (5) of the Oil Pipelines Act), in arriving at a compensation award, has the following stipulations for calculating compensation.

The Nigerian Minerals and Mining Act is another statute governing compensation for oil pollution damage in Nigeria. The Act[18]makes provisions for pecuniary award for damage and pollution caused as a result of

[12] O. Adewale, 'Oil Spill Compensation Claims in Nigeria: Principles, Guidelines and Criteria', [2009], Vol. 33 (1), *Journal of African Law*, 91-104, 95.
[13] Cap O7 LFN 2004.
[14] Cap L5 LFN 2004.
[15] Cap O7 LFN, 2004.
[16] Section 5.
[17] (1973) M.W.S.J. 61 at pages 88-89.
[18] Section 161 of the Act repealed the Mineral and Mining Act.

exploratory activities,[19] and these can be explored by victims of oil pollution damage. Instance of this is found in *God`s Power Nweke & Ors. v. Agip Oil Nigeria Limited.*[20] In the said case, the plaintiffs claim compensation for their damaged economic trees and land resulting from the minerals and mining operations of the defendant. The defendant admitted the averment of the plaintiffs but submitted that it offered reasonable amount of compensation to the Plaintiffs. The Court, applying the Act, mandated that an award that is fair and adequate should be paid to the Plaintiff in line with the law rather than what the defendant considered as reasonable amount.

The Land Use Act is a statute that is relied on for compensation for oil pollution damage. The relevance of this Act to such compensation is its section 29 which section 20 (5) of the Oil Pipelines Act empowers court to adapt in so far as they are applicable in the determination or resolution of a disagreement between a victim of oil pollution damage an oil company in respect of quantum of compensation payable. In addition to the provisions of these laws, anyone who has a cause of action in respect of pollution from oil may initiate a court action in recovering damages or compensation under torts of negligence, nuisance or the *Rylands v. Fletcher* principle.[21]

4. Petroleum Industry Act 2021

The Act has introduced a dimensional twist to the subject of compensation for oil pollution damage in the Nigeria`s oil industry with the inclusion of a host communities development trust in its provisions. Chapter 3 of the Act mandates oil companies to establish a host communities development trust for the oil producing communities in which three (3) percent of the annual resources, revenue of profits of the oil companies is committed to a trust investing in the growth, development and well-being of the oil-producing communities who are usually impacted by the oil companies operations[22] in order to provide them with developmental initiatives which may include infrastructural development, healthcare services, education progarmmes, skills training, job creation, environmental protection, or any other projects that can uplift the living standards and quality of life in the host oil-producing communities.[23]

What the Act has done is to integrate the oil producing communities' development into the economics of oil production by establishing and incorporating the host communities` development trust with the objectives of fostering sustainable prosperity within the oil producing communities and to provide them with direct social and economic benefits from petroleum operations. In this case, the oil-producing communities have been made stakeholders in the business of oil production in Nigeria; and they will, therefore, be deemed to have contributory input in any issue (including oil pollution of the environment of the oil-producing communities) which oil production in their areas may bring about.

According to Coase theory of collaborative input[24] (which can be used by the oil companies as a defence against payment of compensation for oil pollution damage to individuals in the oil-producing communities), where there exists a contractual relationship (such as the host communities development trust which gives 3% of the annual revenue, resources or profit of the oil companies to the development trust of the inhabitants of oil-producing communities) between the injurer and the injured, the injured is precluded from claims of compensation from the same activity in respect of which he is a beneficiary.

As it stands now, by virtue of chapter 3 of the Petroleum Industry Act, 2021, the oil-producing communities are having a kind of contractual relation with the oil companies; and this will not make them eligible for

[19] Section 125 (a), Nigeria Minerals and Mining Act.
[20] (1976) 9 .10 SC 101.
[21] (1866) L.R.I Exch. 265 at p. 279, 280.
[22] S.I. Ibaba, 'Oil Revenue, Development and Inequality in the Niger Delta of Nigeria' [2012], Vol. 6 (26), *African Journal of Business Management,* 7805-7814, 7807.
[23] Ibid
[24] R. A. Coase, 'The problem of social cost', [1960], *Journal of Law and Economics*, 1-44.

benefit of compensation for injury caused by oil production activities in respect of which they share profits[25] (3% of annual revenue, resources or profit) as beneficiaries. The situation will be different (and this may take center stage in addressing oil pollution damage) where inhabitants of the oil-producing communities fall victims to oil pollution not as a contractual party, standing to gain from oil production operations in the oil-bearing area.

Some Nigerian Environmental Scholars like Ekhator[26] have criticized the host communities` development provisions of the Petroleum Industry Act as use of statutory manipulation in incorporating into the Nigeria`s legal system the internal regulatory model which the oil multinational corporations in Nigeria always prefer in the Nigerian oil industry rather than being subjected to a legal system based on sanctions akin to public regulatory paradigm of enforcing compensation for oil pollution damage. His claim is that chapter 3 (Host Communities Development) of the Petroleum Industry Act is a intention to trade-off statutory compensation for oil pollution damage for self-regulatory models (Corporate Social Responsibility (CSR) which, already, has always been in existence and practiced by the oil multinational corporations in Nigeria. He argued that the purpose of these provisions is to divert attention of the oil-producing communities from actual compensation for the loss they continue to suffer from oil pollution carelessly caused by the multinational oil companies, and aggrandizement and promotion, so that the multinational corporations would be perceived by the public as socially and ethically responsible.

5. Legal System of Compensation for Oil Pollution Damage under International Best Practice

To ascertain the level of alignment of the Nigeria`s system of compensation for oil pollution damage with what is obtainable in other oil-producing countries of the world and what international best practice have to offer, there is the need to examine the legal system of compensation under the International Convention on Civil Liability for Oil Pollution Damage (Civil Liability Convention), and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention), which represent international best practice for compensating oil pollution damage..

Civil Liability Convention and Fund Convention

Compensation for oil pollution damage, at the international level, is governed by an international legal regime developed under the auspices of the International Maritime Organization (IMO). The framework for the regime was originally the 1969 International Convention on Civil Liability for Oil Pollution Damage (1969 Civil Liability Convention), and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971 Fund Convention). The aim of the two conventions is to ensure that adequate compensation is available to persons who suffer oil pollution damage resulting from maritime casualties involving oil-carrying ships. They constitute the understructure for the modern legal system for compensation for oil pollution damage.

The Civil Liability Convention forms the major basis and footing for the regime of liability and compensation for oil pollution damage laying down the principle of strict liability for oil pollution damage, and a system of compulsory liability insurance.[27] It ensures that adequate compensation is available to persons who suffer oil pollution damage resulting from maritime casualties involving oil-carrying ships; and it is based on the system and mechanism of placing liability for oil pollution damage on the owner of an oil-carrying ship which has polluted the marine environment in order to ensure that adequate compensation is available to anyone who suffers oil pollution damage resulting from such incidents.[28]

[25] Petroleum Industry Act, section 240 (2).

[26] E. O. Ekhator, 'Regulating the Activities of Oil Multinationals in Nigeria: A Case for Self-Regulation?', [2016], Vol. 60 (3), *JAL*, 1-28.

[27] International Convention on Civil Liability for Oil Pollution Damage, 1992, article VII (1) & (2).

[28] See the Preamble to the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Ships carrying oil are required to have a certificate of insurance or other financial security to cover potential liabilities with the ship owner is required to pay compensation for damages including clean-up costs, property damage, personal injury or death. He can, however, limit such liability to an amount which is linked to the tonnage of his ship under certain conditions.[29] To enjoy the benefit of limiting his liability, a ship owner must constitute a fund for the total sum representing the limit of his liability with the court or other competent authority of any one of the contracting States in which an action can be brought. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the contracting State where the fund is constituted, and considered to be adequate by the court or other competent authority.[30]

International Convention on the Establishment of International Fund for Compensation for Oil Pollution Damage

The International Convention on the Establishment of International Fund for Compensation for Oil Pollution Damage (Fund Convention) provides supplementary compensation to victims of oil pollution damage who cannot obtain full and adequate compensation for oil pollution damage under the Civil Liability Convention.[31] Fund Convention also indemnifies a ship-owner (who is liable) for a portion of liability under the Civil Liability Convention.[32] The Fund Convention creates an organization known as the International Oil Pollution Compensation Funds (IOPC Fund 1992). IOPC Funds is a worldwide organization for the purpose of administering compensation system under the Fund Convention and Civil Liability Convention.[33] The organization is based in London; and it is financed by contributions levied on any person who has received, in a calendar year, more than 150, 000 tonnes of crude oil or heavy fuel oil[34] after a sea transport in a 1992 Fund Member State.[35]

The maximum amount payable by the 1992 Fund for any incident occurring is 203 million Special Drawing Rights (SDR) including the sum that is paid by the ship owner or his insurer.[36] The 1992 Fund is superintended generally by the IMO. However, it has internal administrative mechanisms which are administered by two bodies called the Assembly and the Executive Committee. The Assembly is composed of representatives of the governments of all member states, while the Executive Committee consists of fifteen member States, and it is a subsidiary body elected by the Assembly. Its main function is to approve claims.[37] The convention has rules of claims procedure and internal regulations. The rules of claims procedure is a practical guide to processing and presenting claims as contained in the Fund`s Claims Manual as may be made from time to time by the Fund`s governing bodies. Internal regulations govern the internal operational rules of the Funds mainly as regard to contributions, reports of contributing oil receipts, claims and claims settlement, intervention in legal proceedings and delegation of authority and compensation for claims incidents.

In 2003, a protocol to the 1992 Fund Convention, known as the Supplementary Fund Protocol, was adopted.[38] The protocol provides for a third tier of compensation by establishing an International Oil

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[29] Ibid, article V.
[30] Ibid, article V (3).
[31] 1992 Fund Convention, article 4 (1).
[32] Ibid, article 4 (1) (b).
[33] Ibid, article 2 (1).
[34] Heavy fuel oil refers to a type of fuel oil that is used in marine vessels, power plants, and industrial application. It is a dense, viscous liquid with a high energy density. See S. Alkaff, M. Mukbel and B. Wazeer, 'Heavy Fuel Oil (HFO) Operated Diesel Engine and Impacts of Sulphur Content on the Engine Life', [2005], *ResearchGate*, <www.researchgate.net> accessed 23 May 2025.
[35] Ibid, article 12 (2) (a) & (b).
[36] Ibid, article 2 (1) (a); See also Y. Yang, 'Liability and Compensation for Oil Spill Accidents: International Regime and its Implementation in China', [2017], Vol. 57 (2), *Natural Resources Journal*, 465-492, 479.
[37] 1992 Fund Claims Manual <https://iopcfunds.org> accessed 28 November 2023.
[38] Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.

Pollution Compensation Supplementary Fund (Supplementary Fund).[39] Membership of the Supplementary Fund is optional, and is open to any country which is a member of 1992 Fund. Under the Supplementary Fund, the maximum amount payable for any one incident of oil pollution is an improved 750 million SDR,[40] including the amount payable under the 1992 Conventions. The Supplementary Fund has administrative character, as it is administered by an Assembly of administrative personnel in a secretariat that is headed by a director who is the Chief Executive Officer, and a secretary, who is the head of administration.[41] The Supplementary Fund, which entered into force on the third of March, 2005, is financed in a similar way to the 1992 Fund.[42]

6. Findings

Following a comprehensive review of international and domestic laws, as well as literature on compensation for oil pollution damage, the following findings have been unearthed.

Provisions of the Petroleum Act in Relation to Compensation for Oil Pollution Damage is Diversionary: Outside of chapter 3 of the Petroleum Industry Act which mandates that 3% of oil corporations` annual profits be allocated to a host community` development trust fund, there is no clear-cut provision for compensating individuals affected by oil pollution resulting from oil production activities. The law craftily traded off individual compensation (which has been the cause of age-long agitation in the oil-producing communities) for a host communities' development, a move that is clearly diversionary. These provisions were smuggled into our legal system to promote and give legal backing to the soft law internal regulatory model (Corporate Social Responsibility, CSR) which, already, has been in existence, and which the oil multinational corporations in Nigeria always prefer in the Nigerian oil industry to being subjected to a legal system based on sanctions akin to public regulatory paradigm of enforcing compensation for oil pollution damage caused to individuals through strict enforcement of law or court orders. As it currently stands, the provisions of chapter 3 of the Act are mere aggrandizement and promotion of the oil multinational corporations in order for them to be perceived by the public as socially and ethically responsible.

Neglect of the Vital Subject of Compensation: The Act is a neglect of the vital subject of compensation to someone who suffers damage to his personal property due to occurrence of petroleum slick. When PIA was going through the process of being enacted into law at the National Assembly, there was so much hope of its ability to put an end to all the problems in the oil-producing communities with respect to compensation for oil pollution damage. The Act is not all out to address subject of financial settlement or compensation to individuals who suffer oil pollution damage. It, rather, decides to make members of the oil-producing communities' stakeholders in the Nigerian petroleum industry activities.[43]

Susceptibility to Abuse: The host communities` development provisions of chapter 3 of the Petroleum Industry Act is prone to abuse and ineffective implementation because it is subject to the verification and auditing of the oil companies, some government officials, and some privileged members of the oil-producing communities who may be easily manipulated.[44] Oil multinational corporations` self-regulatory system is self-aggrandizement and self-promotion. It is to make the public perceive the multinational corporations as being socially or ethically responsible.[45]

[39] Ibid, article 4 (1).
[40] Ibid, article 4 (2).
[41] Ibid, article 16.
[42] Ibid, article 10.
[43] See chapter 3 of the Act.
[44] E. O. Ekhator, 'Regulating the activities of oil multinationals in Nigeria: A case for self-regulation?', [2016], *JAL*, Vol. 60, 1-28.
[45] Ibid, 28.

Establishment of a Contractual Relationship Between the Multinational Oil Companies and the Oil-Producing Communities: The implication of this is that, in line with "Coase theorem of collaborative input",[46] the oil-producing communities have established the existence of contractual relationship between them and the oil companies. For this reason, where there is oil spill, polluting and damaging the oil-producing communities` environment or properties of individuals within the communities, Coase theorem of collaborative input[47] will apply to the extent that the communities are already in contractual relationship with the responsible oil company. This will make the affected communities or individuals not to be entitled to compensation for the damage caused by the oil spill. This is because there already exists a contractual relationship (host communities` trust fund) between the communities and the responsible oil company. The highest the responsible oil company may do is to reach out (not strictly for compensation) to the communities through their elders, traditional rulers or recognized associations. Aggrieved individuals may now be reached through the media of either the elders, traditional rulers of the communities or recognized associations.

Conflict Between Traditional Rulers and Members of the Communities as a Result of Local Politics May Come to Play and Determine Who Actually Receives Compensation: The problem that may be created with this approach of reaching out to victims of oil pollution damage through their communities` elders or traditional rulers is that the traditional governance structures in the oil producing communities of Niger-Delta are commonly hierarchical and patriarchal, thereby, making the traditional rulers and male elders act as gatekeepers through which monies (as may be decided between a polluting oil company and the host communities) will be disbursed to affected victims. This means that local politics may come to play and determine who actually receives compensation in the end. An individual victim of oil pollution damage who is out of favour with some leaders or traditional rulers of the communities, may be sidelined. This may create a situation of group division, opening the gate for a new dimension of group struggle and conflicts among the inhabitants of the oil producing communities.

Absence of a Primary Legal System of Compensation for Oil Pollution Damage in Nigeria: A legal system is a deliberately created and established framework that outlines the rules, regulations, and processes for governing a particular activity, organization or situation. It is a conscious effort to create a structured procedure or process that defines rights, responsibilities, consequences, and provide mechanisms for dispute resolution, enforcement and protection of individual and collective interests. It is put in place to provide a stable and predictable environment for social and economic interactions, and to promote justice, fairness and order.[48] Strictly speaking, Nigeria does not have what can be referred to as a legal system of compensation for oil pollution damage due to the fact that, unlike what is obtainable under international best practice of the International Convention on Civil Liability for Oil Pollution Damage, and the International Convention on the Establishment of International Fund for Compensation for Oil Pollution Damage which were, primarily and specifically enacted to govern and address matters of compensation for oil pollution damage, there is no law in Nigeria that is so enacted to deal with subject of compensation for oil pollution damage. In the long and traumatic history of oil pollution damage in Nigeria, the country has never deemed it important to formulate one policy to address the subject of compensation for oil pollution damage. There is, also, no establishment of any regulatory institution to implement any policy or enforce any law on compensation for oil pollution damage.

Although, there are some laws such as the Oil Pipelines Act, Minerals and Mining Act, and Land Use Act, which some of their provisions are usually relied upon by litigants when a cause of action arises in respect

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[46] R. A. Coase, 'The problem of social cost', [1960], Vol. 11 (2), *Journal of Law and Economics*, 1-44, 9.
[47] Ibid.
[48] M. Friedman and G.M. Hayden, 'What is a Legal System?', [2017], <https://doi.org/10.1093/acprof:oso/97801904> accessed 15 September 2023.

of compensation for oil pollution damage,[49] the laws merely contain some scanty provisions that are, usually, adapted to suit that purpose. They are not primarily enacted for compensation for oil pollution damage. For instance, going by the long title of the Oil Pipelines Act, it is an Act making provisions for licences to be granted for the establishment and maintenance of pipelines incidental and supplementary to oilfields and oil mining and for purposes ancillary to such pipelines. The Petroleum Law, that was greatly expected to address this particular concern has, deliberately, avoided that, and the law was enacted for several purposes including petroleum industry framework, management of the environment, adoption of a national grid system for acreage management, issuance of petroleum exploration, and prospecting licenses, introduction of bidding process for hydrocarbon exploration license or production lease etc.

Absence of Administrative Approach or Intervention: One major characteristic or attribute of the Petroleum Industry Act is, like the Oil Pipelines Act,[50] its absolute reliance on court for resolution of any subject of compensation for oil pollution damage.[51] The court has the prerogative to determine whether a polluter is liable to pay compensation for oil pollution damage, the value payable as compensation, and the person to whom it is to be paid.[52]

7. Recommendations

Following from the above findings of the paper, the following recommendations are, hereby, offered.

Explicit Provisions for Compensation: Petroleum Industry Act should be amended to include explicit provisions for compensating individuals affected by oil pollution damage, accompanied by robust enforcement mechanisms. This would ensure that individuals receive fair compensation while still allowing for host community development initiatives to coexist and benefit the oil-producing regions.

Enactment of a Specific Primary Law for Compensation for Oil Pollution Damage: Compensation system in Nigeria is regulated by so many laws that are not strictly, primarily or specifically enacted for that purpose. These include the provisions of Oil Pipelines Act`s sections 11 (5) (c), 19, 20;[53] Mineral and Mining Act`s section 125 (a); Land Use Act`s sections 29 and 30.[54] The country stands to benefit from enacting a dedicated law focused on compensating individuals for oil pollution damage. This would help alleviate tensions in oil-producing areas.

Establishment of an Administrative Authority for Compensation for Oil Pollution Damage: Establishing a specialized administrative body to oversee and implement compensation for oil pollution damage could streamline and facilitate the process, reducing reliance on courts to determine liability and compensation.

[49] Cap O7 LFN 2004; and which is, primarily, an Act making provision for licences to be granted for the establishment and maintenance of pipelines which is incidental and supplementary to oilfields and oil mining and for purposes ancillary to such pipelines.
[50] Oil Pipelines Act, section 11 (5) (c).
[51] See Oil Pipelines Act, section 19 and 20. See Land Use Act, section 29 and 30. See Minerals and Mining Act, section 125 (a).
[52] Oil Pipelines Act, sections 11 (5), 19 and 20 (5).
[53] Cap O7 LFN 2004.
[54] Cap L5 LFN 2004.