

**BALANCING ENVIRONMENTAL PROTECTION AND ECONOMIC DEVELOPMENT
EFFORTS IN NIGERIA: IS THE RIGHT TO A HEALTHY ENVIRONMENT BEING
COMPROMISED?**

Abstract

Economic development is concerned with process and activities carried out to improve the economic well-being and quality of life for a community of men, while environmental health is concerned with process and activities undertaken to establish good relationships between man and his surroundings for his good health and sustenance on earth. The two must progress together for development of any human community to be sustainable, as the two are interdependent. Nigeria's economy is largely driven by oil and gas production. Following the country's 1956 discovery of oil in commercial quantity, she hurriedly developed the discovered oil fields, leading to quick export of the products to Europe by 1970. The country, then, started adopting various economic strategies to leverage oil exports for national development. However, the environmental impact of oil and gas production has not received comparable attention. While social amenities and development of infrastructures have gained tremendous prominence as a result of oil production boom, environmental protection efforts have been largely overlooked. This paper examined the balance between Nigeria's economic growth initiatives and environmental safeguards. The findings indicated that environmental protection has been overshadowed by economic development priorities. A doctrinal legal research method was adopted, incorporating both primary and secondary information sources.

Keywords: Environmental Protection, Economic Development, Human Rights, Nigeria

1. Introduction

The environment, which is the all-encompassing platform for development and other pursuits¹, is a precious gift from nature, and man depends on it for nourishment, support and sustenance.² It is also a product of a complex ecological system in which human beings and other living organisms co-exist.³ Man needs environment for provision of essentials of life like appropriate temperature, adequate oxygen, food, water, air, fuel, medicines, minerals which are required for him to stay alive and experience meaningful development.⁴

In recent times, man whose survival depends on the environment, has engaged in warfare against the same environment in order to satisfy his unending and aggressive quest for industrialization, economic prosperity, civilization, scientific and technological development, urbanization, and his unsustainable wasteful lifestyles. As a result of this destructive tendency of man, concerns about the environment have become a subject of great interest and prominence among the people of the international community. In 1972 and 1992, the United Nations coordinated the Stockholm Conference and the Rio Earth Summit respectively to deliberate on the need to safeguard the environment. Through these landmark conferences, the UN sought collective actions from all members of the global family to salvage and protect the earth from environmental threats for the sustenance on earth of the present and future generations.⁵ Countries of the world, including

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¹A.B. Abdulkadir, 'The Right to healthful Environment in Nigeria: A Review of Alternative Pathways to Environmental Justice in Nigeria', [2014], Vol. 3 (1), *Afe Babalola University Journal of Sustainable Development Law and Policy*, <<http://www.ajol.info/index.php/jsdlp/article/viewfile/122619/112167>> accessed 21, January 2024.

² M. T. Okorodudu-Fubara, *Law of Environmental Protection*, (Caltop Publications Nig. Ltd., Lagos, 1998), 25.

³ P Bellamy, *Academic's Dictionary of Environment*, (Oxford University Press, U. K, 2007) 154.

⁴ O. U. Ndukwe, *Elements of Nigerian Environmental Laws* (University of Calabar Press, Calabar, 2000) 196.

⁵ UNEP, 'Urgent Nature Action Needed to Salvage Sustainable Development Goals: UN Report', [2022], <https://www.unep.org>, accessed 24 September, 2023.

Nigeria, were admonished to exploit their resources sustainably and guarantee the protection of their environment not only for their own benefit but also for the overall benefit of the entire universe.

Nigeria, being a developing entity ravaged by poverty, disease and somewhat unplanned development, has her own share of environmental issues. The problems get complicated by her population explosion. The interactions and activities of the huge population of the people residing in the country are having huge impacts on the country's environment and landscape. Her environmental problems have been further aggravated by her unsustainable oil production practice following her large-scale oil discovery in 1956.⁶ The country's environmental problems are also connected with the disgusting struggle by the horde of the people living in the country to satisfy their needs for hardly accessible necessities of life like food, shelter, health care, education, recreation, water and electricity, which the governments (at all levels), are foot-dragging in providing, because economic and social well-being of the citizens are not, constitutionally, protected or guaranteed. This is evident in non-judicial nature and unenforceability of the Chapter II of the country's Constitution⁷ which contains provisions for economic and social rights. Section 6 (6) (c) of the Constitution renders the Chapter II of the Constitution non-justiciable and unenforceable against the government. This, and the unchecked official corruption, pervading the land, put the people on the edge to be involved in endless individual struggle for essential needs of life. The resulting unsustainable, carefree and reckless exploitative use of the land and its resources by desperate and unsupported Nigerians, is negatively impacting the country's environment.⁸

This paper aims to evaluate Nigeria's efforts and progress in environmental conservation and economic expansion to know if a balance exists between the two critical areas, recognizing that these two goals are interconnected and essential for sustainable development and growth.

2. Conceptual Clarification

The paper adopts the twin concepts of environment and economic development to enhance its analysis and arguments.

The Environment

The environment is a product of a complex ecological system in which human beings and other living organisms co-exist.⁹ It is all-encompassing reality that surrounds individuals and communities from birth to death. This consists of land, water, atmosphere, climate, sound, odour, taste, energy, waste management, the biological and ecological aspects together with cultural traditions, historical legacies and creative endeavors.¹⁰ In recent times, man whose survival depends on the environment, has engaged in warfare against the same environment in both its living and non-living elements through different environmentally unfriendly activities and unnatural exploitation. This, he does, in order to satisfy his unending and aggressive quest for industrialization, economic prosperity, civilization, scientific and technological development, urbanization, and his unsustainable wasteful lifestyles. One of man's most potent instruments of warfare against the environment is the pollution of the marine and land-based environment with oil.¹¹ As a result of pollution of the environment, the world's ecosystems are subjected to extraordinary disruptions stemming from global warming, biodiversity loss, atmospheric pollution, ozone layer depletion, and oil pollution of the marine and the inland environment.

⁶ H.T. Pona *et al*, 'Environmental health situation in Nigeria: current status and future needs', [2021], National Library of Medicine, <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8022161/>> accessed 28 October 2023.

⁷ The Constitution of the Federal Republic of Nigeria, 1999 (as amended).

⁸ O.N. Ogbu, *Human Rights Law and Practice in Nigeria*, (2nd ed., Snaap Press Ltd., Enugu), 113.

⁹ P Bellamy, *Academic's Dictionary of Environment*, (Oxford University Press, U. K, 2007) 154.

¹⁰ United Nations Environment Programme (UNEP) 'Training Manual on International Environmental Law' [2006], <wedocs.unep.org> accessed 15 March 2023.

¹¹ U. D. Ikoni, *An Introduction to Nigerian Environmental Law*, (Malithouse Law Books, Nigeria, 2010) 251.

Economic Development

This refers to the process of improving the economic well-being and quality of life for a country's citizens. It involves the creation of wealth, improvement of living standards, and reduction of poverty. It is a multidimensional concept that encompasses various aspects, including economic growth, poverty reduction, access to education, human development, infrastructural development, institutional development, and of course, environmental sustainability.

3. Theoretical Framework and Literature Review

This paper employs the use of sustainable development theory to emphasize the need for Africa to have an entrenched effective and functional legal infrastructure that is capable of addressing problem of oil pollution. Sustainable development theory emphasizes the need to harmonize the ecosystems and man-made systems in such a way that there will be harmonious co-existence of natural and scientific development for man's survival and development that will balance current demands with future well-being, and not sacrificing tomorrow's potentials even while meeting today's needs.¹² Decleris¹³ is a proponent of this theory, and he is convinced that the co-evolution of man-made systems and ecosystems is attainable and depends mainly on the harmonization of decisions to achieve a balanced order.¹⁴ He further describes development as a process that ensures the entire population has access to all basic needs of life, such as health, nutrition and housing. It also provides opportunities for everyone to participate in shaping the process through engagement in meaningful carriers and groundbreaking discoveries.

This paper reviewed the work of Tyagi,¹⁵ an advocate of strict liability for oil pollution damage. Tyagi observes that oil pollution is a serious nightmare to many oil-producing African countries, especially Nigeria because of the weakness and defects in the countries' legal systems for the control of oil pollution which he claims are weak and fraught with so many circumstances under which oil is allowed or permitted to be spilled or discharged. He says oil companies usually hide under these circumstances to freely discharge oil into the environment, knowing that they can easily escape liability for their acts. He, particularly raises a finger against the Nigeria's Oil in Navigable Waters Act which permits a release of oil and other oil related substances/mixtures into the marine environment on account of preventing vessel damage or loss of life.¹⁶ Tyagi says where a polluting vessel discharges oil or oil mixtures into the Nigeria's marine environment, a defence will be offered to the polluter by merely establishing that the discharged substances occurred due to vessel impairment, and that reasonable measures were implemented to contain, minimize or stop the discharge.¹⁷

To support his advocacy for strict oil spill liability, he makes a detailed analysis of India's system of controlling and managing wastewater pollution. He states that the India's legal system for control of wastewater pollution is effective because it is based on the 'polluter pays' principle in which a wastewater polluter in India is strictly and unconditionally accountable for oil contamination damage caused. Although, wastewater pollution control, which is the subject extensively analyzed by Tyagi, is not the same as oil pollution control, it is note-worthy that the 'polluter pays' principle and strict liability which are the bedrock of India's effective wastewater pollution control conform to the principle 16 of the United Nations' 1992 Rio Declaration on Environment and Development.

¹²M. Decleris, *The Law of Sustainable Development, General Principles: A Report for the European Commission*, (Cambridge University Press, 1996), 36.

¹³ M. Decleris studied law and social sciences at the National University of Athens, Greece. He was a Doctoral Fellow and received Ph.D. from the Law School of Yale University. He is the founder of Hellenic Systems Group and the European Systems Union based in Paris.

¹⁴ Ibid.

¹⁵ Ibid, n. 266.

¹⁶ Oil in Navigable Waters Act, section 4.

¹⁷ Ibid, section 4 (2).

4. Examining Nigeria's Initiatives for Environmental Conservation and Protection

Nigeria's legal system for protection of the environment is standing on a trilateral pillar of legislative enactment, formulation of policy, and establishment of regulatory institutions. It emphasizes integration of environmental protection into some of the country's National Development Plan as it is the case with the fifth and the sixth National Development Plans; formulation and implementation of a National Policy on Environment such as the one which was launched in 1991, revised in 1999 and 2016; enactment of laws on some vital segments of environmental protection; the inclusion of environmental protection and improvement initiatives in the provisions of the Nigeria's Constitution;¹⁸ and, importantly, the creation of regulatory authorities to implement policy and enforce environmental protection laws.

Item 60 (a) on the exclusive legislative list of the Constitution specifically empowers the National Assembly to legislate on creation of regulatory institution for the central government or any of its constituent parts "in order to promote and enforce the observance of the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution". This includes establishment of regulatory authorities for safeguarding and enhancement of ecological balance.¹⁹

The Nigeria's Constitution is the source from which all the legal measures (including the laws, policies and regulatory authorities for environmental protection and conservation) in Nigeria derive their legitimacy and validity.²⁰ It is, therefore, the intention of this study to begin its examination of the legal measures for protection of the environment in Nigeria with the analysis and scrutiny of relevant constitutional provisions.

5. Nigeria's Environmental Protection Legal Instruments

Federal Environmental Protection Agency (Establishment) Act

The need for the enactment of the Act became imperative following the Koko incident in which toxic wastes were dumped in the territory of the country by an Italian company and its Nigerian collaborators. The law created an agency known as the Federal Environmental Protection Agency. It is the responsibility of the Agency to see to the maintenance of standards for Federal water quality, effluent limitation by establishing limitations for new points sources of effluent; see to the maintenance of atmospheric health and air purity by establishing criteria, guidelines and benchmark for air pollution control in Nigeria. It is to, also, guarantee the ozone's safety by undertaking and recognizing international efforts to address the combined effects of all atmospheric pollutants and stressors.²¹ It is to identify major sources of noise, and seek to bring such sources under control with the help of sound management system and by establishing noise minimization strategies as well as standards for emission of noise.²² Where a company is found to have engaged in noise pollution, upon conviction, the company shall be subject to pay a penalty not exceeding 500, 000.00 plus a further penalty of N1000 for each day the offence continues.²³

Harmful Waste (Special Criminal Provisions, etc.) Act

This Act was enacted as a fitting compliment to FEPA Act as a response to the above earlier discussed illegal toxic wastes disposal in Nigeria. Its principal goal is clearly stated in its opening section,²⁴ which is to preserve Nigeria's environment against pollution and dumping of hazardous substance in any part of Nigeria's environment. The Act is essentially a penal legislation; and it criminalizes unlawful disposal of hazardous materials on Nigerian territory.²⁵ The Act is broadly divided into two parts which include the part consisting crimes in respect of harmful wastes and the part described as miscellaneous to the Act which

¹⁸ Sections 20, 16 and 17.

¹⁹ Section 20.

²⁰ The Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 1.

²¹ Section 19.

²² Section 20.

²³ Section 21 (3).

²⁴ Section 1.

²⁵ Ibid.

empowers the law enforcement agents to, without warrant search, seal a dumping site, seize or arrest anyone reasonably suspected of commission of a crime under the Act.²⁶

Section one to seven discuss, in detail, the acts that are prohibited and which will constitute crimes under the Act. The parties that will constitute parties to a crime is also comprehensively analysed. Under the Act, a person is considered a participant in a crime if he physically commits the act or wilfully omits to act as required; or if he assists or facilitates another person's commission of the crime. For clarification, one will be deemed to have committed the crime if he aids another person's crime, if he advises, instigates, or induces the other person to commit the crime, and he may, either be charged with committing the crime or being an accessory to it; and anyone found guilty of the offence of dumping harmful waste in any part of Nigeria will, if convicted, be punished with life imprisonment.

National Environmental Standards and Regulations Enforcement Agency Act 2007

The thirty-seven sections Act²⁷ creates an Agency known as National Environmental Standards and Regulations Enforcement Agency (NESREA)²⁸ with the vision to ensure a cleaner and healthier environment for Nigeria and to inspire personal and collective responsibility in building an environmentally conscious society for promotion of eco-friendly development in Nigeria. The Agency is the major Federal Government's organization in defence of Nigeria's environment and for ensuring compliance with environmental statutes, guidelines, policies, standards and regulations, as well as implementing obligations under global environmental agreements to which Nigeria is a signatory.²⁹ NESREA is mandated to safeguard and enhance the environment, conserve biodiversity and promote sustainable management of Nigeria's natural resources, encompassing environmental technology.

Environmental Impact Assessment Act 1992

This Act was borne out of the implementation of the country's fifth National Development Plan (NDP) which made provisions for the introduction of an efficient environmental management system that would ensure that environmental considerations influence all economic and social activities so that the environmentally adverse consequences of such activities can be anticipated and hedged against or minimized.³⁰ The Act, among other things, establishes protocols for conducting environmental impact assessment on certain public and private projects. The Act does not create a separate body or agency to administer and enforce its provisions. Rather, it gives specific powers to the Federal Environmental Protection Agency, created by the Federal Environmental Protection Agency (Establishment) Act, to conduct evaluation of environmental consequences for project approval.³¹

Climate Change Act 2021

The Act establishes the National Council on Climate Change (the Council)³² which is to coordinate the implementation of sectoral targets and guidelines for the regulation of greenhouse gas emissions and other anthropogenic causes of climate change.³³ The Act also authorizes the Council to work together with the Federal Inland Revenue Services (FIRS) to design a mechanism for a carbon tax in Nigeria.³⁴ The Act makes it an obligation for all ministries, departments and agencies (MDAs) of the Federal Government, to set up a climate change desk where all compliance and climate change planning activities by MDAs are to be carried

²⁶ Section 10.

²⁷ Cap F10 LFN, 2004.

²⁸ Section 1 (1)

²⁹ Section 1 (2) (a).

³⁰ M.S. Shuaibu, 'Trends and Nature of National Development Planning in Nigeria', [2020], *ResearchGate*, <www.researchgate.net> accessed 23 April 2024.

³¹ Section 6.

³² Section 3.

³³ Section 4 (a).

³⁴ Section 4 (i).

out.³⁵ Non-compliance with carbon emissions targets is to attract sanctions of the principal of such MDAs, such as fines which are to be assessed by the Council.³⁶ Non-compliance with the obligation will occasion sanctions to be evaluated by the Council based on Environmental Economic Accounting Measure. The Act empowers the Council to issue notices via gazette regarding duties and sanctions or non-compliance.³⁷

6. Environmental Protection by the Nigerian States

Nigeria operates a federal constitution with governmental powers and public responsibilities being shared among three tiers of governments consisting of the government of the federation (which is at the center, and wielding the highest concentration of powers), thirty-six federating units known as States (with Abuja, the seat of federal power, standing alone), and seven hundred and seventy-four (774) Local Government Authorities. Environmental management is not listed in either part I³⁸ or part II³⁹ to the Second Schedule under the provisions of the Nigeria's 1999 Constitution (as amended). Consequently, exercise of jurisdiction on environmental matter is open to any of the three tiers of government within the limit of their authority as allowed by the Constitution. As a result of this, each State of the federation of Nigeria has its own environmental protection policy and arrangement. Such arrangements are predominantly in the area of waste management activities (industrial or domestic) and matters incidental to them.

7. Juxtaposition of Nigeria's Economic Development Endeavour with her Environmental Protection Initiatives

In Nigeria, the quest for economic development, improvement in living conditions, and increase in industrial activities, have aggravated environmental problems. This is because there is usually a close relationship between developmental activities and environmental problems. Industrialization, urbanization, civilization, mass production, agricultural mechanization, infrastructural development, and economic growth are indices of development which cannot be achieved without extensive exploitation of natural resources which, most often, undermine environmental health.

Ecological sustainability's spirit is that industrial advancement and environmental health ought to progress together so as to ensure that industrial and societal development do not cause unwarranted changes to ecosystem and their component parts.⁴⁰ However, if one compares the fact that Nigeria has formulated and implemented six (6) National Development Plans (National Economic Policies) for economic growth and development as against just one (1) National Policy on Environment that have been conceived and implemented, it will be safe and fair to infer that there is no balance of scale between economic development efforts and environmental protection strive. The country prioritizes economic development over environmental protection and conservation.

Sequence of Nigeria's Economic Development Initiatives

Between 1962 and now, Nigeria has launched six (6) National Development Plans (NDP) with the initiatives to improve her economy and material standards of living. The first was between 1962 and 1968; the second, between 1970 and 1975; the third, between 1975 and 1980; the fourth, between 1981 and 1985; the fifth, 1988-1992. The sixth is still in operation, which is planned to last from 2021 to 2025. A facile analysis of both the country's National Development Plans and National Policy on Environment is desirable to underscore the economic development interest, growth and development of the country over environmental protection and conservation. The country's first National Development Plan took place between 1962 and

³⁵ Section 22

³⁶ Section 22 (3).

³⁷ Section 24 (1) (b).

³⁸ Exclusive Legislative List.

³⁹ Concurrent Legislative List.

⁴⁰ United Nations (UN), '17 Goals of Sustainable Development', *Department of Economic and Social Affairs*, <<https://sdgs.org>> accessed 13 February 2024.

1968. It was a post-independence plan with a total budget allocation of one million, three hundred and fifty-three thousand naira (N1, 353 million), representing 3.7% of the total budget.⁴¹

Because agriculture was still an important foreign exchange earner for Nigeria, the plan's main objective was designed to develop and encourage the assemblage of agricultural produce for export purpose and for greater generation of foreign exchange earnings. The second plan, between 1970 and 1974, evolved when the country had just survived a civil war which threatened her existence. The plan, therefore, targeted post-war reconstruction, including construction of productive capacity, over-coming of critical bottlenecks, and drive for self-reliance.⁴²

The 1975-1980 plan was the third in the series. It emphasized the need to reduce regional disparities in order to foster national unity through adoption of integrated rural development. The objectives of the plan also included the expansion of agriculture, industry, transport, housing, water supply, health facilities, education, and rural electrification.⁴³ The plan was reputed as one of the most ambitious.⁴⁴ This is because, whilst the first national plan involved a capital expenditure of one million, three hundred and fifty-three thousand naira (N1, 353 million),⁴⁵ and the second national plan had an expenditure of three billion naira (N3b); the third national plan proposed a capital expenditure of thirty billion naira (N30 billion). Also, whilst the former two plans proposed growth rates of 4% and 6.6% per annum in real terms, respectively; the third plan proposed a growth rate of over 9% per annum.⁴⁶

The launch of the country's fourth National Development Plan held in 1981, and it happened to be the first to be developed by a civilian government in Nigeria. The plan stretched to 1985, and it placed emphasis on the need for a balanced development of the diverse segment of the economy, and of the various geographical territories of the country. The plan also emphasized the need for rural infrastructural development as a means of increasing the material standards of living of the rural dwellers.⁴⁷

Nine hundred and twenty-four million naira (N924, 000, 000) was, therefore, allocated to the, then, eleven Rural-Basin Development Authorities (RBDA) for construction of boreholes, dams, feeder roads and jetties. Sums of six hundred and forty-five million naira (N645, 000, 000. 00) and seven hundred and four million naira (N704, 000, 000. 00) were allocated to the Federal and State Governments respectively for rural electrification projects.⁴⁸ Two million, eight hundred and five thousand naira (N2, 805, 000. 00) was equally allocated for rural water supply schemes, with some local governments in States like Anambra, Plateau, Cross-River, Former Bendel and Borno, receiving further allocation of a total of three hundred and eleven million, eight hundred and twenty-four thousand naira (N311, 824, 000. 00) for water projects.⁴⁹ Before 1985 when the plan was supposed to last, the Nigerian Military seized political power from the civilian authorities. The plan, therefore, had an extension in the period of implementation, as it produced a phase that was referred to as the "Post-Fourth National Development Plan"; and this period lasted between 1985 and 1987.⁵⁰ The

⁴¹ G.O. Ugwuannyi, 'The Economic Implications of National Development Plans: The Nigerian Experience', [2014], *Developing Country Studies*, Vol. 4 (9), 172.

⁴² Nigeria's Federal Ministry of Economic Development, Central Planning Office, *Second National Development Plan, 1970-74*, (Federal Government Printer, Lagos, 1970).

⁴³ A.O. Lewis, 'Nigeria's Third National Development Plan, 1975-80: An Appraisal of Objectives and Policy Frame', <<https://www.ide.go.jp>> accessed 20 March 2024.

⁴⁴ Ibid.

⁴⁵ 'Budget Speech 1976/1977 by the, then, Head of State', *Daily Times, Lagos*, [April 2, 1976].

⁴⁶ L.M. Olayiwola and O.A. Adeleye, 'Rural Infrastructural Development in Nigeria; Between 1960 and 1990 – Problems and Challenges', [2005], *Journal of Social Sciences*, Vol. 11 (2), 91-96, 93.

⁴⁷ Ibid.

⁴⁸ J. Aremu, 'National Development Plan in Nigeria: Issues and Challenges', *Ministry of Budget and Planning*, <<https://nationalplanning.gov.ng>> accessed 21 March 2024.

⁴⁹ Ibid.

⁵⁰ A. Amuwo, 'Nigeria's National Development Plans', [2008], *Jstor*, <<http://www.jstor.com/stable/resrep>> accessed 24 March 2024.

period witnessed the establishment of the Directorate for Foods, Roads and Rural Infrastructure (DFRRI) in 1987, pursuant to the, then, promulgated Decree No. 4 of 1987, for the purpose of providing infrastructures to the rural dwellers.⁵¹ DFRRI carried out rural electrification programmes; constructed over ninety thousand kilometers (90, 000km) feeder roads; promoted the development of rural housing, health and agriculture.⁵²

The launch of the fifth National Development Plan spans from 1988 to 1992. The plan emphasized Structural Adjustment Programme (SAP) through which naira was devalued; tariffs reduced; non-oil export was promoted through incentives, and the country's economy was more opened to foreign trade; all for the purpose of achieving national economic growth and development.⁵³ The plan also worked out some plan and target for environmental protection which were, rather, vague, tangential and not elaborate.⁵⁴ It did not contain clear, specific, and measurable objectives and strategies to address environmental challenges. This suggests that environmental protection was not a priority in the plan, and the measures outlined may not have been sufficient to mitigate environmental degradation and promote sustainable development.

The sixth National Development Plan is still in operation. It was launched in 2021; to remain in use up to the end of 2025.⁵⁵ It is a combination of medium and long-term blueprints with the adaptation of an integrated and multi-sectoral development approach which recognizes the diverse and interlinked characteristics of growth that is sustainable, and which is based on the strategy of dealing with all the interventions simultaneously through a coordinated grand design of implementing development programmes.⁵⁶ The plan was set forth against the backdrop of several subsisting development challenges like low and fragile economic growth, insecurity, weak institutions, insufficient public service delivery, notable infrastructure deficits, climate change, and weak social indicators, all of which need to be tackled within the framework of medium- and long-term plans. The thirty-eight chapters plan deals with a wide range of matters of national development including economic growth and development, infrastructure, public administration, human capital development, social development, and environment.⁵⁷

It was the first time a Nigerian National Development Plan would make an elaborate and comprehensive plan in respect of the environment. Chapter 24, which is titled "Environment and Disaster Management" recognizes that the negative effects of industrialization and over-exploitation of natural resources have led to severe climate change and environmental degradation, not only in Nigeria, but across the globe; and that the Nigerian governments, at all levels, have decided to take on a major environmentally sustainable model like green economy,⁵⁸ bioeconomy,⁵⁹ circular economy;⁶⁰ and to strengthen the country's disaster management capabilities at all levels of governance by ensuring that disaster preparedness and response planning are essential elements of coherent emergency management. The low point of the plan is that it contains no provision in respect of subjects of oil and gas pollution of the Nigeria's environment, that are, obviously, the country's combined greatest environmental problems.

⁵¹ G.E. Ifenkwe, 'Addressing Road Infrastructural Needs of Rural Communities for Accelerated Agricultural Development', [2011], Vol. 11 (2), *Journal of Agriculture and Social Research*, 45-66, 51.

⁵² Ibid.

⁵³ Nigerian Economic Society, Nigeria Federal Ministry of Planning, 'The Fifth National Development Plan and the restructuring of the Nigerian Economy', [1985], *WorldCat*, <<https://search.worldcat.org>> accessed 26 March 2024.

⁵⁴ I.H. Aliyu *et al*, 'Problems and Prospects of Development Planning in Contemporary African Societies: Nigeria in Perspective', [2021], Vol. 11 (1), *Journal of Political Economy*, 135-150, 141.

⁵⁵ A. Rivkin, 'Nigeria's National Development Plan', [2022], Vol. 43 (5), *Jstor*, 321-338, 326.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Which reduces the harmful effects from industrial and household activities through initiatives like climate adaptation, biodiversity preservation and adoption of renewable energy.

⁵⁹ Which utilizes biotechnology in real sectors like agriculture and industry to achieve sustainable production.

⁶⁰ Which addresses the unsustainable exploitation of reuse and recycling of resources to eliminate waste.

Economic Vision Initiatives

Apart from Nigeria's series of national policies on economic development and growth which were put in place over the years, the country has, also, formulated and implemented string of "visions" initiatives for economic development. The visions are cord of complex, multipart exercise through which the country makes plans into the future based on guidelines. There were the formulation and implementation of "Vision 2010", "Vision 2015" and "Vision 20: 2020" on matters relating to national economic governance for national growth and development.⁶¹

Vision 2010 which was launched on the 27th of November, 1996, was an initiative of the late General Sanni Abacha. Vision 2010 Council was constituted and it was made up of two hundred and forty-eight (248) sages, headed by the late Chief Earnest Shonekan. The Council's mandate, as set out in a 14-item terms of reference, required it to develop a blue print that would transform Nigeria and place her on the route to becoming a developed nation by the year 2010.⁶²

Vision 2015 was developed to key into the initiatives of the International Community' Millennium development Goals. Nigeria was among the one hundred and eighty-nine countries from across the world that endorsed the Millennium Declaration in New York in September, 2000, which, ultimately, led to the adoption of the eight time-bound Millennium Development Goals (MDGs) and their monitorable indicators. The eight goals that were to be achieved by respective countries by 2015 included elimination of extreme destitution and famine (MDG1); achievement of Universal primary education (MDG2); promotion of gender equality and empowerment of women (MDG3); reduction of child mortality (MDG4); improved maternal health (MDG5); combating HIV and AIDS, malaria and other diseases (MDG6); eco-friendly practices (MDG7); and worldwide collaboration for growth (MDG8).⁶³

Vision 20: 2020 was launched on the 1st of October, 2009 as a prospective economic and business plan with the goal of making Nigeria one of the twenty economies in the world by the year 2020. To ensure the realization of this objective, an institutional framework responsible for the development and implementation of the vision was established. This consisted of the National Council on Vision 20: 2020, which was the apex body for the operational and institutional arrangements, and which served as engine for the visioning process. There was, also, the Stakeholders Development Committee which included State Governments, Federal Ministries, Departments and Agencies (MDAs), and other key institutions, and which was to provide information that would aid the development of the country's vision plan.⁶⁴

All these development initiatives are tools for contrived improvement in the material standards of living, health and life-expectancy. They also help government to deliver on a range of social and economic objectives. However, their implementation and delivery always have considerable impacts on the natural environment; as close relationship exists between economic development and ecological destruction.

Initiatives for Environmental Protection

In contrast with country's series of economic development plans formulated and implemented over the years, the only national policy on the environment ever formulated and implemented in Nigeria took place in 1991, revised in 1999 and 2016, and the policy is protective-regulatory in nature through which the government

⁶¹ A. Adeoye, 'Like Abacha's Vision 2010, Like Buhari's Vision to Lift 100 Million Nigerians Out of Poverty', [2019], *TheCable*, <www.thecable.ng> accessed 27 March 2024.

⁶² E. Ujah, 'From Abacha Comes Vision 2010', [2019], *Vanguard*, <www.vanguardngr.com> accessed 27 March 2024.

⁶³ International Labour Organization, 'Millennium Development Goals', <<https://www.ilo.org>> accessed 27 March 2024.

⁶⁴ National Bureau of Statistics, 'Nigeria Vision 20: 2020' [2010], <<https://www.nigerianstat.gov.ng>> accessed 21 March 2024.

sought to protect the people against some harmful activities that some individuals and corporate bodies might engage in.⁶⁵

The ten (10) sections policy contains subjects like the purpose of the policy; implementation, legal and regulatory framework; environmental management system; cross-sectoral media; cross-sectoral issues; sectoral strategies such as human population, culture, housing etc. The subject, also, include financing environmental protection and natural resources conservation; partnership and stakeholders involvement, as well as policy review; with the overall goals of safeguarding the environment and preserving natural resources for the future generations; the necessity for a safe and wholesome environment that promotes good health; the advancement of a holistic awareness of the interconnections between environmental, social, and economic factors; prudent utilization of natural assets, the restoration and maintenance of the biological diversity of ecosystems; encouraging people and communities in environmental improvement initiatives participation; raising of public awareness and engendering a national culture of environmental preservation; and building of partnership among all stakeholders including government at all levels, international institutions and governments, non-governmental agencies and communities on environmental matters.

It is also important to note that, in Nigeria's annals of mineral resources extraction, the country has formulated just one national policy for oil pollution control.⁶⁶ That national policy is called "the Nigeria's National Oil Spill Contingency Plan (NOSCP)". It was formulated in 2005 at the prompting or instance of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990, which Nigeria subscribes to. Article 6 of the Convention mandates all countries that have acceded to it to put in place a response system for oil pollution control within their territories.⁶⁷ In compliance with this directive/mandate, Nigeria launched her first and only oil spill control policy in 2005 to address incidents of oil spills within the country.

8. Findings

A policy is a set of guidelines, principles or decisions conceived and made by a government or institution to address specific issues, challenges or goals that affects human society, organization or state as a whole. Government's actions and enacted laws should ideally be grounded in a clear and well-thought-out policy to ensure that such law addresses a specific problem, has a clear purpose, is coherent and consistent, is effective, efficient and successful in relation to purpose for which it was enacted. The problem with many environmental protection laws in Nigeria is that they are not product of well-thought-out national policy frameworks, and this has brought about so many defects inherent in them, thereby rendering them ineffective, lacking in adequate coordination and producing limited impact. Some of the inadequacies inherent in Nigeria's environmental protection legal framework are as follows.

Ineffective Environmental Enforcement Strategy: This is one of the greatest challenges to the environment. Most of the environmental enforcement strategies and mechanisms are poor and poorly implemented. For instance, the mechanism for collection and management of environmental statistics of facilities and service providers including waste transporters, waste vendors, landfills areas, companies' effluent emission data, carbon footprints, sewage treatment plants and other recycling companies are neither developed nor implemented. Many of the environmental law management agencies do not have the effective modern equipment to enhance monitoring of some of the environmental problems.

⁶⁵ A.E. Davies, 'Environmental Protection in Nigeria: Problems and Prospects', [1993], *The African Review: Journal of African Politics, Development and International Affairs*, Vol. 20 (2), 39-56, 42.

⁶⁶ O. Atanda, 'An Overview of the Legal Framework for Oil Pollution in Nigeria', [2015], *ResearchGate*, <<https://www.researchgate.net>> accessed 07 April 2024.

⁶⁷ Nigeria acceded to it in 1993, and her accession took effect from 1995, <www.treaties.un.org> accessed 19 July 2023.

Non-Specification of Amount of Fund: Many of the statutes creating environmental protection agencies in Nigeria, such as FEPA Act, NESREA Act, OGEPA and LASEPA do not contain provisions on the actual amount that will be made available for the created agency annually for the performance of statutory responsibilities with respect to environmental conservation. To worsen the matter, the Lagos State Environmental Protection Agency Law gives room for the Agency, LASEPA, to be corrupt. Section 18 of the law states that one of the sources of funding for LASEPA includes any other sums that may come its way from “any other source”.⁶⁸ The use of the phrase “any other source” is not tidy enough, and susceptible to negative interpretation to include money received through bribery, kick-back, compromise of duty and corruption.

Undue Adherence to Legalism by Courts: This constitutes a great challenge to the effective environmental protection in Nigeria. For instance, one of the environmental laws enforcement major problems in Nigeria is the issue of *locus standi*. Individuals do not have environmental rights (*locus standi*) to pursue their environmental related deprivation, degradation or inconvenience in court where the act of the environmental deprivation, degradation or inconvenience complained of constitutes public nuisance or act affecting the general public as a whole unless the complaining individual has suffered greater loss, injury, damage or inconvenience than other members of the public from the action of the environmental degrader. The Attorney-General is the only entity that can commence legal proceeding against the degrader of the environment; and where the Attorney-General refuses to so commence action against the defendant, he cannot be compelled by any individual to do so. In *Chief A.S. Amos & Ors. (For themselves as individuals and on behalf of Ogbia Community, Brass Division) v. Shell B.P. Petroleum Development Company of Nigeria Ltd. &ors.*,⁶⁹ It was the position of the court that only Attorney-General could maintain an action against environmental inconveniences affecting members of the public generally.

Mild Punishments of Environmental Offences: Punishments for environmental offences are usually mild, thereby not enough deterrent for potential polluters. For instance, a person guilty of an offence under section I, 3 or 5 of the Oil in Navigable Waters Act involving a release of specific oils into the areas designated as forbidden maritime zones, a release of oil into the Nigeria’s territorial waters, and failure of a ship to comply with the requirement to be equipped with specific instrument, technology or appliances in order to prevent oil pollution, shall be subject to a fine exceeding two thousand naira (N2, 000), upon conviction by a High Court.⁷⁰

9. Conclusion and Recommendations

This paper has examined the questions of balancing economic development with environmental protection in Nigeria. Through a comprehensive analysis of relevant case law, it has revealed that Nigeria’s government lacks political will to end the country’s environmental problems, especially the ones caused by oil pollution. This is responsible for the anomaly. Sustainable development requires balancing economic development and environmental protection. These two aspects are interconnected, and the progress in one area should not come at the expense of the other. The government should show much more political will to address Nigeria’s environmental problems for the benefit of the country and for the overall benefit of the entire universe. The government should not prioritize economic development, social well-being over environmental safeguard.

⁶⁸ Section 18.

⁶⁹ (1977) 6 S.C. 109 at p. 114.

⁷⁰ Oil in Navigable Waters Act, section 6.