ENVIRONMENTAL DEGRADATION AS A VIOLATION OF HUMAN RIGHTS: ITS IMPACTS ON THE WELLBEING OF HUMANS AND POLICY CONSIDERATION IN NIGERIA

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ABSTRACT

This study examined environmental degradation as a violation of Human Rights: Its impacts on the wellbeing of humans and policy consideration in Nigeria. In Nigeria, natural occurrences and human activities, including the activities of oil corporations have indubitably caused the degradation of the environment, to the extent that citizens no longer have access to clean water, quality air, productive land, etc. This scenario has adversely impacted on the health, livelihoods, wellbeing and cultural heritage of Nigerians, prompting the germane question of whether or not environmental degradation constitutes a violation of human rights in Nigeria. This study followed a doctrinal methodology and in tackling this vexed question, the study *inter alia* considered the various environmental degradation and their impacts on Nigeria, and the National Policy on environmental degradation in Nigeria, with a view towards ascertaining whether environmental degradation actually affects a particular right or some sorts of rights/wellbeing of Nigerian citizens and to what extent. It was found, amongst others that the sole purpose of implementation of the Policy on environmental degradation in Nigeria, is to guarantee Nigerian citizens the rights to a clean and healthy environment.

***Key Words*:** Environmental Degradation, Effects, Human Rights, Wellbeing, and Policy.

INTRODUCTION

Nigeria has witnessed different forms of environmental degradation as a result of natural occurrences and human activities. These human activities include but are not limited to the activities of the oil multinational companies in Nigeria, which have affected the wellbeing of Nigerians, as the consequences have always been oil spillages, gas flaring, etc., with their attendant effects on human life, livelihoods and the general wellbeing of the people. Oil that spills into the water does not only

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make the water unfit for consumption, but destroys the aquatic lives therein and thereby depriving those who rely on it for their survival their means of livelihoods.

Oil spillages on land render the land unproductive for agricultural purposes, thereby causing loss of livelihoods and food security which man is entitled to, as of right. Gas flaring on the other hand, pollutes the air and deprives man of standard and quality air needed for his respiration; a scenario that causes diseases such as bronchitis and other respiratory diseases to man. This study aims to bring to the fore that all of these effects on man and the entire environment translate into deprivation of the wellbeing and abuse of human rights in so far as human life and existence is threatened by environmental degradation of any type. Whatever that can affect human health and livelihood is invariably an antidote to the right to wellbeing and human existence which in a nutshell, is an abuse of human rights which inure in man by virtue of his humanity.

Nigeria has formulated a policy to tackle the incidence of environmental degradation in Nigeria. The policy affects all forms of environmental degradation in Nigeria. Its implementation through the instrumentality of law is key, as it defines the nexus between environmental degradation and right to a healthy environment in Nigeria which will be appreciated as we progress in this study.

TYPES OF ENVIRONMENTAL DEGRADATIONS AND THEIR IMPACTS ON HUMAN RIGHTS AND WELLBEING IN NIGERIA

The major environmental problems facing Nigeria include Deforestation, Oil Degradation, Atmospheric Degradation, Water Degradation, Land Degradation, Waste Management, and Noise pollution. Each of these problems has adverse implications on human wellbeing, thereby violating man's right to a healthy environment in Nigeria.

Deforestation and its Abuse of Human Rights and Wellbeing in Nigeria

Deforestation causes the extinction of very vital species of plants that are of nutritious and medicinal value to man, such as cocoa, coffee, palm trees, corn; medicinal plants, such as those used in producing quinine for the treatment of malaria, curare that is used as a muscle relaxant in surgery and rosy periwinkle used in the treatment of leukemia patients.[3] Where these species are made extinct through deforestation, mankind would have lost their medicinal and nutritional values. It also negatively affects

[3] UN General Assembly A/HRC/RES/48/13 <https:daccess-ods.un.org/tmp/2996929.88395691.html> Accessed 22nd July, 2022.

the local population by reducing access to clean water and increasing the risk of flooding and landslides, Nigeria has the highest deforestation rate in the world, with an estimated 3.7% of its forest lost every year.[4]

Adewale Adeoye, Chairman of the Nigerian Human Rights Community (NHRC), speaking to the cable in commemoration of 'world rainforest day' said forests are being destroyed in a way that shows no respect for the United Nations convention on biodiversity, which the country (Nigeria) is a signatory to, and for Nigeria to preserve its forests and protect the lives of its citizens, the country needs to stop the illegal exportation of rare plants and animal species, exploitation of indigenous communities, and the indiscriminate hauling of forest by alien forces.[5]

He further posited that, 'as the most species-rich natural environment on earth, tropical rainforests like what we have in Nigeria help to keep the climate balanced and serve as nature- based solution for climate change as such rainforests harness the ability of nature to reduce greenhouse gas emissions, and help humans adapt to the impact of climate change.[6] The said depletion of the different plant and animal species, if not checked, will eventually affect the livelihood of Nigerians'.[7] Relating the situation to human rights violation in Nigeria, Adeoye concluded that what is going on in Nigeria is a complete violation of the convention on biodiversity and rights of indigenous people of which Nigeria is a signatory to.

Oil and Gas Degradations and its Abuse of Human Rights and Wellbeing in Nigeria

An oil spill is a form of pollution. It is the release of a liquid petroleum hydrocarbon into the environment, especially marine areas, due to human activities.[8] Oil spillage has a major impact on the ecosystem into which it is released. Immense tracts of the mangrove forests, which are especially susceptible to oil is being destroyed. An estimated 5 to 10% of Nigeria's mangrove ecosystems have

[4] 'Deforestation in Nigeria: Causes, Effects and Solution' <https://www.green.earth-blog-deforestation-in- Nigeria-cause,effect,and,solution> Accessed 12th October, 2023.

[5] A Adeoye, 'The Cable, Nigeria Failing in its Obligation on Forest Preservation, says Rights Group' <https://www.thecable.ng/nigeria-failing-in-its-obligation-on-forest-preservation-say-right-grouplamp> Accessed 22/12/2023.

[6] Ibid.

[7] Ibid.

[8] S Abila, 'Impacts of Oil/Gas Operations on the Environment and Summary of the Legal Regime Governing the Exploration and Exploitation of Oil Mineral Resources in Nigeria's Niger Delta' [2018] (3) *University of Port Harcourt Journal of Private Law*, 157.

been wiped out by oil pollution, and the rainforest which previously occupied some 7,400km^2 of land has disappeared as well.[9]

Oil spillage in populated areas often spread out over a wide area, destroying crops and aquaculture through contamination of the ground water and soils.[10] The consumption of dissolved oxygen by bacteria feeding on the spilled hydrocarbons also contributes to the death of fish. Often, in agricultural communities, a year's supply of food can be destroyed instantaneously.[11] On 1st May 2010, an Exxon Mobil pipeline ruptured in the State of Akwa Ibom spilling more than a million gallons into the Delta for about seven days before the leak stopped. There was demonstration by the local people against the oil company, where the community leaders demanded for $1b as compensation for the illness and loss of livelihood suffered.[12] Oil spillage and dumping of oil and industrial wastes into waterways in Nigeria, have been extensive, poisoning drinking water and destroying vegetation, while farmers, fishermen and others who depend on natural resources for their livelihood lose lots money.[13]

Also, gas flaring as a result of the activities of the oil companies in Nigeria has caused harm to human lives and other species. For example, complaints are rife in the Niger Delta that gas flaring has destroyed their plants and wild life,[14] and that a majority of the people of the Niger Delta have become half- deaf from the incessant din of the gas flare.[15] Gas flaring constitutes a veritable hazard. It causes acid rain which acidifies the lakes and streams and damages crops and vegetation. It reduces farms yields and harms human health, lives and livelihoods; increases the risk of respiratory illnesses, asthma and cancer and often causes chronic bronchitis, decreased lung function, blindness, impotency, miscarriages and premature deaths.[16] At present, scientific studies have also shown the prevalence of acid rain in the entire Niger Delta region of Nigeria directly traceable to the effect of gas flaring which is associated with petroleum extraction activities in the Niger Delta region. This acidity has been

[9] Ibid 159.
[10] Ibid.
[11] Ibid.
[12] 'Nigeria's Agony Dwarfs the Gulf Oil Spill. The US and Europe Ignore it' https://www.theguadian.com/world/2010/may/30/oi/-spills-Nigeria-niger-delta-shell Accessed 13th October, 2023.
[13] S Abila, (n11)157.
[14] (n 7) 164.
[15] Ibid.
[16] Ibid.

discovered to have effectively polluted streams, rivers and open well resources in the Niger Delta region where majority of the indigenes do not have access to portable drinking water.[17]

Audrey Gaughran[18] said 'the Niger Delta provides a stark example of the lack of accountability of a government to its people, and of multinational companies' almost total lack of accountability when it comes to the impact of their operations on human rights. He went further to say, 'people living in the Niger Delta have to drink, cook with and wash in polluted water. They eat fish contaminated with oil and other toxins- if they are lucky enough to be able to still find fish. The land they farm on is being destroyed. After oil spills the air they breathe smells of oil, gas and other pollutants. People complain of breathing problems and skin lesions–and yet neither the government nor the oil companies monitor the human impacts of oil pollution. According to him, the human rights impact of pollution in the Niger Delta is greatly under- reported. The majority of people in the Niger Delta depend on the natural environment for their food and livelihood, particularly through agriculture and fisheries.

He further posited that, 'the Nigerian government is aware of the risks that oil- related pollution poses for human rights, but has failed to take measures to ensure those rights are not harmed. Despite the wide spread pollution of the Niger Delta's land, rivers and creeks- and the many complaints from people living in the region we could find almost no government data on the impact on humans of any aspect of oil pollution in the Niger Delta.[19] Thus, the government has a duty to protect their citizens from human rights abuse or harm by businesses, and they are failing in that duty.'[20]

Air Degradation and its Abuse of Human Rights and Wellbeing in Nigeria

Air pollutants emission in Nigeria are majorly from biomass fuel burning from vehicles, energy sector, land fill gases, domestic cooking stove and industries. Metropolitan cities such as Lagos, Kano, Port Harcourt are hotspots of air pollution in Nigeria. Onitsha, a Port city on the bank of the Niger River in the south is not left out, as they are all at health- damaging levels.[21] The 2018 World Air Quality Report

[17] Ibid.

[18] A Gaughram,, 'Nigeria: Amnesty Internation says Pollution has Created Human Rights Tragedy in the Niger Delta'[2009](1) (244) *Amnesty International Press Release* 1-2 available at <https://www.amnesty.org/en/latest/press-release/2009/o6/nigeria-amnesty-international-says-pollution-has-created-human-rights-tr/> Accessed 19/12/2023; Audrey Gaughran is Amnesty International's head of Business and Human Rights and co-author of *Petroleum, Pollution and Poverty in the Niger Delta*.

[19] (n 18).

[20] Ibid.

[21] T O Sogbamu, 'Air Pollution in Nigeria: A Review of the Causes, Effects and Solution [2020] in T O Sagbamu's edn, *Air Pollution: A Review of the Causes and Effects* (Metropolitan International University Press, 2020) 368-

Region and City PM25 ranking by IQ Air and Greenpeace ranked Nigeria the 10th most polluted country in the world, with an estimated average PM 2.5 concentrations of 44.8µg/ms. The report also ranked Kano in Nigeria the most polluted city in Africa. According to updated figures from the Health Effects Institute (HEI) and the institute for health metrics and evaluation's (IHME), more than 64,000 people died from household air pollution in Nigeria in 2017; many from the burning of solid fuels, such as charcoal and wood for cooking in open fires and leaky stoves.[22]

Onitsha recorded the world's worst levels of PM10 (particles of less than 10 micrometers) air pollutants in 2016 with an annual mean concentration of 594 micrograms per cubic meter (µ/m3). This was nearly 40 times above the World Health Organization (WHO) annual guideline of 15µg/m3 for PM10.[23] Air pollution was responsible for about a million premature deaths in Africa in 2016.[24]

It is noteworthy to point out here that gas flaring, amongst other pollutants, has immensely contributed to atmospheric pollution in Nigeria. A campaign to end gas flaring, led by environmental rights action/ friends of the earth (ERA/FOE), has been internationalized culminating in a national court case brought by a coalition of international and local NGOs and the Iwherekan community against Shell as a test case resulting from the numerous diseases and even death suffered by the members of the said community owing to air pollution occasioned by gas flaring due to Shell's operations.[25] The Federal High court sitting in Benin City on 14 November 2005, had in the case of *Jonah Gbemre v SPDC*[26] ordered a stop to gas flaring, declaring it a 'gross violation of the fundamental human rights to life and dignity, which include the right to a clean, poison free, pollution- free healthy environment. This case underscores the violation of human rights by air degradation in Nigeria and thereby creating a nexus between air degradation and human rights violation as affecting Nigeria.

Furthermore, in the aftermath of the Gbemre's case there has been another ruling delivered by the Federal High Court, this time in the Port Harcourt Judicial Division. This ruling was given in the

375<https://www.researchigate.net/publication/344069776-Air-Pollution-in-Nigeria-A-review-of-the-causes-effects-control-and-management> Accessed 15th October, 2023.

[22] Ibid,368.

[23] (n 21) 375.

[24] Ibid, 369.

[25] CETIM, 'Cases of Environmental Human Rights Violation by Shell in Nigeria's Niger Delta' [2014] *Geneve Switzerland Bulletin* 43 available at <https://www.cetim.ch/cases-of-environmental-human-rights-violations-by-shell-in-nigeria%E2%80%99s-niger-delta/> Accessed 22/12/2023.

[26] *Jonah Gbemre v SPDC & 2 Ors* [2005](Unreported suit) No FHC/D/CS/53/05.

case of *Ikechukwu Okpara and 3 Others v Shell Petroleum Development Company of Nigeria Limited & 5 Others.*[27] The suit had been instituted by four[28] of the plaintiffs in the original suit which had been filed in the Benin judicial division before Gbemre instituted a new suit as a single plaintiff. This suit had the same defendants as in the original suit except Mobile Producing Nigeria Unlimited. The thrust of this case was similar to that of Gbemre on the deleterious effects of gas flaring which has toxidified the air quality of the environment of the plaintiffs' communities and caused health challenges, such as diseases and even death. The reliefs sought were virtually identical, as the plaintiff asked the court to grant a perpetual injunction against the defendants from flaring gas in their communities. They similarly asked for declarations that the flaring of gas in their communities violated their fundamental human rights to life and dignity of human person enshrined in the Constitution and reinforced by the African Charter on Human Procedure Rules (Ratification and Enforcement) Act and also prayed the court for a declaratory order that the provisions of section 3(2) a and (b) of the Associated Gas Re-injection Act[29] as well as the provisions of section 1 of the Associated Gas Re- Injection (Continued Flaring of Gas) Regulations[30] under which oil companies were allowed to continue to flare gas, were null and void due to inconsistency with the Constitution. Unfortunately, the court held *inter- alia* that rights created under the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act do not fall under 'fundamental rights' as envisaged under section 46(1) of the Constitution and cannot be initiated through the fundamental right (enforcement procedure) rules.[31] In addition to the foregoing, the court also stated that section 34(1) of the Constitution expressly used the term 'dignity of his person'[32] laying emphasis on the word 'his' and concluded that it was not the intention of the draftsman to include a community in a single term.

From the foregoing, it is not gainsaying that air pollution as a source of environmental pollution in Nigeria affects negatively the right of Nigerians to a healthy environment as it has not only caused

[27] [2005]Suit No FHC/PH/CS/518/2005 (unreported).
[28] Ikechukwu Okpara Representing the Rumuekpe Community (1st Plaintiff), Che I. Ibegwura Representing the Eremah Community (2nd Plaintiff), Victor Chris Egbe Representing the Akala-olu Community (3rd Plaintiff) and Odimabo Igotefima Representing the Idama Community (4th plaintiff).
[29]Associated Gas Re-injection Act, 1979 Cap A 25 LFN 2004.
[30] Associated Gas Re- Injection (Continued Flaring of Gas) Regulations 2018, s 1. 43.
[31] Ibid.
[32] Ibid.

deaths and sicknesses to Nigerians, it is still causing deaths and diseases thereby violating the fundamental right to life provided by the Constitution of the Federal Republic of Nigeria.

Water Degradation and its Abuse of Human Rights and Wellbeing in Nigeria

Water pollution in Nigeria impacts negatively on the citizens' rights to a healthy environment. The sources are surface water, such as oceans, rivers, lakes, lagoons. The main sources of surface water pollution include inadequately treated or completely untreated wastewater, indiscriminate effluent and sewage discharges into surface water, fertilizer run off that finds its way back into rivers and lakes and oil pollution from ships and oceans.[33] Ruptured oil pipelines and pipelines vandalized by oil thieves also cause oil spillages into surface water, and ground water found below the surface of the oil. The main sources of water pollution include hazardous substances from agriculture, such as fertilizers and pesticides, toxic chemicals from waste dump sites and industrial installations.[34] The major consequences of water pollution in Nigeria are socio- economic, health and environmental problems.

Water pollution by organic wastes is a source of diseases such as cholera, typhoid fever, dysentery, and so forth.[35] Water pollute on also contributes to the problem of water scarcity in that it makes the available water to become toxic and unsuitable for human consumption and for use in industrial activities.[36] Hepatitis B and C remain the silent killer and dominant hepatitis infections that are lately diagnosed in Nigeria. These have, in most cases, led to liver cancer and liver siroccos. In essence, the poor have been dying of this disease in Nigeria.

In Nigeria also, environmental degradation affects agriculture as a wide range of contaminants can reach rivers, lakes and streams either by ground water or through drainage ditches, including artificial fertilizer residues, insecticides, herbicides, pesticides and farm wastes all of which are potentially harmful.[37] The primary agricultural pollutants are nutrients (particularly, nitrogen phosphorus), sediment, animal wastes, pesticides and salts. These enter surface runoff or through seepage to ground water that discharges to a surface water outlet thereby contaminating waters and causing the death of fishes, more especially in areas where there are lakes, rivers and dams in Nigeria.

[33] C O Ajuzie, *Our Common Environment*: *Understanding the Environmental, Law and Policy* (University of Lagos Press, 2012)76.
[34]Ajuzie (n 33).
[35] Ibid.
[36] Ibid, 134.
[37] Ibid.

Nitrates also soak into the ground and end up in drinking water which can result in health problems such as methemeglopbinemia or blue baby syndrome which causes death in infants.[38] Ammonia, pesticides as well as oil, degreasing agents, metals and other toxins from farm equipment harm and kill aquatic life and animals and cause health problems when they get into drinking water. Bacteria and parasites from animal waste can also get into drinking water which can cause illness and death.

In *SERAC v Nigeria*,[39] the Africa Commission on Human Rights, in a case of pollution of water and destruction of aquatic or marine lives by an oil multinational company in Ogoni land which resulted in diseases, hunger, death, etc, relying on the provisions of the African Charter on Human and People's Rights held *inter alia*, that Nigeria violated the right to food, which is derived from Arts 4 (the right to life), 16 (the right to health) and 22 (the right to economic, social and cultural development of the people of Ogoni. Note that food is derived from water, and aquatic creatures, such as fishes, crabs, etc, constitute sources of livelihood and economic sustainability of the Ogoni people which have been destroyed by oil companies operating in Ogoni land through oil spills that rendered their waters degraded.

Furthermore, in *Centre for Oil Pollution Watch (COPW) v NNPC*[40] the court entertained a matter on water degradation in a community in Abia State. The case was brought in the federal high court, Lagos Division, over an oil spillage in Acha community of Abia State of Nigeria. The oil spillage was allegedly caused by the defendant's negligence resulting from its pipeline, which had corroded due to lack of maintenance, had ruptured, fractured and spewed its entire contents of persistent hydrocarbon mineral oil into surrounding streams and river of Ineh/Aku resulting in contaminating two community streams that were the major sources of water supply to the community. The trial court struck out the suit for lack of *locus* having not suffered any injury at all, let alone any injury above every other member of the Acha community resulting from the alleged oil spillage. On appeal, the Court of Appeal dismissed the appeal by reaffirming the trial court's ruling. The plaintiffs appealed to the Supreme Court. Granting the appeal, the Supreme Court noted particularly for the first time that:

[38] Ibid.
[39] [2001] Comm. No.15/96 (ACmHPR)).
[40] [2019]5NWLR (Pt 1666) 518 (SC).

1. There is no gain saying in the fact that there are increasing concerns about climate change depletion of the ozone layer, waste management, flooding and global warming et cetera, both nationally and internationally; countries and organizations are adopting stronger measures to protect and safeguard the environment for the benefits of the present and future.
2. The Supreme Court also made significant strides in 'greening' the Nigerian Constitution and confirming the existence and enforceability of environmental human rights in Nigeria, in a manner that increases the possibility of successful climate change litigation in the country, especially by allowing public interest litigation. First, the Supreme Court held that section 20 of the Nigerian Constitution on duty to protect the environment by the state is justiciable when read together with and in the context of, a provision like section 4(2) of the Constitution on the power to make laws to give effect to section 20. Second, the Supreme Court explicitly recognized for the first time, that section 33 of the Constitution which guarantees the right to life, implicitly includes and constitutes a fundamental rights to a clean and healthy environment for all. Third, the Supreme Court explicitly affirmed the enforceability of the environmental right in article 24 of the African Charter on Human and People's Rights as domesticated in Nigeria by the African Charter Act, Cap A 9 LFN 2004.

Land Degradation and its Abuse of Human Rights and Wellbeing in Nigeria

Pollution of land depreciates and deteriorates the quality, texture and mineral content of the soil and thus disrupts the biological activities in the soil.

Land pollution has become a common occurrence in Nigeria, for instance, in the Niger Delta region where oil exploration activities take place, the livelihood of the inhabitants have been marginally affected due to the indiscriminate disposal of waste and spillage of oil.[41] Oil spillage resulting from the activities of oil exploitation in the region has contaminated the land and rendered it unfit for farming and habitation. The main occupation of the Niger Delta people is farming and fishing. They depend on agriculture for income, food and livelihood. The major crops grown in the region include yam, cassava, pumpkin, and fruits.[42]

[41] A B Abdulkadir, A Taofeeq, 'Land Pollution in Nigeria. Reflection on the Legal Frameworks' [2021] (69) Crescent *University Law Journal* 117.
[42] Ibid.

Oil spillage has continued to have tremendous adverse consequences on agricultural products either from the points of view of relative effects on the soil or growing crops.[43] When oil spills into the land, it automatically blocks air space in the soil thereby reducing the air content of the soil, which affects a lot of soil reaction. It affects the soil structure and soil texture thereby reducing the fertility of the soil. With this, the land becomes hardened and no crop can grow in such an environment.[44]

With regards to crop cultivation, studies have shown that several or hundreds of crops have been destroyed in the Niger Delta due to oil spillage. Farmers have suffered a lot of this. Immediately oil spills into the farms, it automatically stops the growth of crops. When this happens, the productivity of the farmers become low and the right to standard of living will be affected. This has a long- term effect both on the nutrients content of the soil and to those who rely on it for means of sustenance.[45] It has recently been projected that it will take between 25 – 30 years for most lands in the Niger Delta to be brought back to their original state.[46]

From the foregoing, therefore, it should be noted that environmental degradation in Nigeria adversely affects human rights; particularly right to life and right to a healthy environment as the different types of environmental degradation discussed herein and their impacts such as loss of livelihood, diseases, and death violate the fundamental human rights to live in a safe and healthy environment. The right to a healthy environment is implicit in the right to life. Its nexus with human rights cannot be over emphasized.

Waste Management System and its Abuse of Human Rights and the Wellbeing in Nigeria

Improper waste disposal systems in Nigeria have a lot of negative impacts on human lives in Nigeria. Nigeria, with a population of 197, 848, 805 million people (population equivalent to 2.57% of the total world population), is one of the largest producers of solid waste in Africa, and it generates more than 32 million tons of waste annually while only 20 – 30 % are collected and 70% are dumped in unsafe places.[47] Some of the catastrophic effects of today's poor waste management systems in Nigeria are:

[43] Ibid.
[44] Ibid.
[45] Abdulkadir (n41)118.
[46] Ibid.
[47] B I Ogunniran, 'Harmful Effects and Management of Indiscriminate Solid Waste Disposal on Human and its Environment in Nigeria: A Review [2018] (6) (4) *International Journal of Social Science and Humanities Research*, 1428.

soil contamination, water contamination, extreme weather caused by climate change, air contamination, harm towards animals and marine life, and human damage.[48]

For instance, Nigeria bears one of the heaviest burdens of malaria globally, the total traceable death by malaria in Nigeria as at 2020 is 31.8%. The total number of deaths by malaria in 2019 was 187,437 and in 2020, deaths stood at 199,689, which shows an increase of 6.5% within the period. Also, the total number of malaria cases recorded in 2019 was 60.37 million, which is a 6.8% increase when compared to the number of cases in 2020 which recorded 64.46 million.

There is no doubt considering the above discussed health impacts of waste management system in Nigeria, that waste management has remained a challenge and the environment has continuously been subjected to abuse, thus negatively impacting the right to a healthy environment in Nigeria.[49]

From the foregoing, it is therefore, our submission that health related diseases, such as cholera, typhoid, asthma, bronchitis, diarrhea, malaria and even deaths orchestrated by poor waste management systems on Nigerians not only threaten, but grossly violate the human rights of Nigerians to life and healthy environment.

Noise Degradation and Its Abuse of Human Rights and Wellbeing in Nigeria

Noise pollution has ill effects on human beings as well as other living and non- living things. Noise levels in Nigeria as elsewhere in the world have greatly increased with the growth of industries and urban development. The commonest forms of noise in Nigeria are, among others, excessive use of loud speakers to hawk wares or conduct social and religious activities, the barking of dogs, the blasting of neighbours' stereos, sirens, intruder car alarms, the crowing of cocks, grinding machines, electricity generating sets, crying babies, late night parties, poultry farms, the honking of cars, the screeching of tyres, the screaming of motor park touts calling for passengers, noise from industrial activities et cetera.[50]

Noise damages the ear and causes temporary or permanent noise induced hearing loss. Auditory effects may lead to temporary hearing loss or permanent hearing loss. Many people complain

[48]O Oluwaseun, Nigeria's Public Waste Management is poor and it's a looming Climate, Disaster, [2022] available at <https://www.dataphyte.com/latest-reports/enviornment/nigeria-public-waste-management-is-poor-and-its-a-looming-climate-disaster> Accessed 20/12/2023.

[49] N Ikpeze, 'Safe Disposal of Municipal Waste in Nigeria: Perspectives on Right Based Approach' [2014] (3)(1),*Afe Babalola University Journal of Sustainable Development, Law and Policy,* 85.

[50] A K Usman, *Environmental Protection Law and Practice* (Ibadan: Alaba PRESs, 2012) 47.

that noise makes them mentally ill. Doctors and scientists have now medically confirmed that noise disturbs biological organisms and their respective functions. Fire crackers and others have given rise to neurosis, mental illness, cardiovascular diseases, stomach ulcers and respiratory disorders reducing human life. Psychiatrists and psychologists have recently observed that noise has certain relation with physical health causing tension and problems such as speech interference, annoyance, fatigue, sleep interference (insomnia) and emotional stress. Noise levels in industries cause interference in efficiency and communication and raises possibilities of accidents. Intense noise levels such as explosions and sonic booms cause cracks in national and archeological monuments as well as vibrations in building.[51]

In *Tebite v Marine and Trading Co. Ltd*,[52] the Plaintiff, a legal practitioner occupied premises where he carried out his law practice. The defendants occupied adjourning premises where they carried out the business of boat building and repairing. The Plaintiff sued contending principally that by operating its machines continuously for several hours a day the defendants had persistently caused the emission of loud and excessive noise and noxious fumes from their premises which caused the Plaintiff much discomfort and inconvenience. It was established in the course of the proceedings that the noise generated and emitted by the defendants was excessive and much more than any noise that can be produced in any noisy area in Nigeria. The court held that the noise was excessive and awarded damages to the plaintiff and also restrained the defendants from further act of noise nuisance.

Noise pollution is a human rights violation. Mr Ahmed Goniri, the Attorney General in Yobe, said 'it was important to protect citizens through strict application of existing laws, and that naturally, some people cannot sleep with noise around them, that means when you are making a noise you are infringing into their rights of peaceful existence and enjoyment of their rights.'[53]

POLICY CONSIDERATION FOR ENVIRONMENTAL DEGRADATION AND THE RIGHT TO A HEALTHY ENVIRONMENT IN NIGERIA

Apart from laws, the Nigerian government has also formulated policies geared towards combating the menace of environmental degradation which if fully implemented, will in our view reduce the challenges of gross violation of human rights to a healthy environment by environmental degradation in Nigeria. The government in line with its policy will do the following:

[51] H Ijaiya, 'The Legal Regime of Noise Pollution in Nigeria' [2014] (5) (1) *Beijing Law Review* 44.
[52] [1971] I UILR 432(HC).
[53] A Goniri, 'Noise Pollution is Human Rights Violation' [2015] 28th September, *Daily Post* <https://dailypost.ng/2015/09/28/noise-pollution-is-human-right-violation-lawyers/> Accessed 21/12/2-23.

Forest Ecosystem

1) Formulate and implement innovative strategy to increase forest and tree cover to at least 25% of the total land area (in line with Food and Agricultural Organisation Standard);
2) Develop and implement a national strategy for rehabilitation of degraded forest ecosystems;
3) Promote the national exploitation of forest resources to meet domestic consumption needs and to achieve a significant export activity on a long term basis;
4) Protect, conserve, and create new forests for scientific, cultural and economic purposes while ensuring proper dissemination of scientific and technological information conducive to more efficient use of forest resources;
5) Review and support the effective implementation of the national forest policy and other related policies and legislations;
6) Regulate forestry activities to enhance conservation and environmentally sound management practices;
7) Develop and support appropriate forest – based development mechanisms in the emerging carbon markets;
8) Develop and expand energy generation from renewable resources (such as hydropower and solar power) as well as centralized power generation from using fossil fuels to using cleaner technologies in order to reduce pressures on forest and woodlands;
9) Integrate economic and social development priorities into forest conservation measures so that local communities can share in the management of the resources in the benefits of trade in their products;
10) Develop measures for the sustainable use and management of forest genetic resources through a combination of *in situ* and *ex situ* methods while minimizing the impacts of forest operations on biodiversity, et cetera.[54]

Oil and Gas

1) Ensure baseline studies are conducted before operations begin;

[54] UNEP, 'National Policy on the Environment (Revised 2016)',[2020]available at <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC176320/> Accessed 27/12/2023.

2) Require strict environmental and social impact assessments before permits are issued for oil and gas activities;
3) Ensure that biodiversity conservation plans are integrated into business plans in the oil and gas sector;
4) Require regular environmental evaluations and risk management plans for oil and gas fields as prerequisite planning tools;
5) Enforce legislations outlawing gas flaring;
6) Require clear pollution prevention provisions in oil field operations;
7) Ensure that all incidents are reported promptly and responses, including clean ups, are in line with the international standards enumerated in the environmental guidelines and standards for the petroleum industries in Nigeria (EGASPIN);
8) Integrate communities inputs and participation in environmental planning and protection strategies and measures without compromising on technical knowledge and expertise;
9) Consider all communities in particular oil and gas field as host communities keeping in mind that pollution does not respect community boundaries, et cetera.[55]

Air and Atmospheric Resources

1) Support the Federal Ministry of Environment to put in place and/or strengthen institutional arrangement for tackling the problems of atmospheric pollution in collaboration with the Federal Ministries of Civil Aviation (Nigerian Meteorological Services- NIMET) and health, as well as other relevant agencies;
2) Strengthen existing air standard guidelines and standards, and develop new ones where necessary in order to counter the increasing level of emissions, particularly in urban and industrial areas;
3) Develop or strengthen air standard enforcement capacity;
4) Improve monitoring of traditional and trace pollutant emissions and concentrations;
5) Promote efficient non- motorized and mass transport system;
6) Promote alternative cooking stoves and new technologies that are non- polluting, affordable, available and adaptable and the construction of well ventilated houses, et cetera.[56]

[55] (n 54) .
[56] Ibid.

Water

1) Implement the national relater policy or Act;
2) Develop and implement integrated wet land and water resources management strategies and action plans in order to achieve Nigerian's water vision of sustainable access to clean and safe water for all;
3) Promote sustainable use of freshwater, wetland and underground water resources and the conservation of vulnerable river and lake ecosystems in particular and biological diversity in general;
4) Ensure rehabilitation and restoration of degraded wetlands river banks and lakeshores and where appropriate promote and support establishment of constructed wetlands;
5) Develop and enforce effective water pollution prevention and control programmes, including instituting mechanisms to address deviation from standards;
6) Develop and implement mitigation measures to address climate change and its impact on freshwater and wetland;
7) Prepare and implement a harmonized Integrated Ecological Master Plan (EMP) as well as Coastal Zone Management action Plan;
8) Implement the West African Coastal Areas (WACA) programme to reduce the country's vulnerability to coastal erosion flooding and sedimentation problems;
9) Build capacity, share knowledge and ensure community participation in the plans and management of coastal and marine ecosystems;
10) Establish strict control of discharge of pollutants and toxic wastes into coastal and marine ecosystems including ensuring compliance to relevant laws and regulations et cetera.[57]

Land

1) Review and implement national policy on drought and desertification and the translation of the national drought preparation strategy to vernacular;
2) Undertake a baseline study to quantify the extent and severity of land degradation and desertification in the frontline and buffer states and mitigate the effects of drought in Nigeria;

[57] (n 54).

3) Strengthen the capacity of the Department of Drought and Desertification Amelioration (DDDA) in the Federal Ministry of Environment to coordinate activities for combating desertification;
4) Implement the national strategy for the great green wall Sahara and Sahel initiative for the establishment of 1500km by 15k of green wall in the front line states to halt the advancement of the Sahara desert, enhance environmental sustainability and control land degradation;
5) Review the national Land- Use Act, to accommodate aspect of sustainability in land use practices;
6) Promote sustainable land management best practice;
7) Promote awareness and active participation of communities in land management, particularly rehabilitation of degraded lands programmes;
8) Promote active involvement of communities in the practices of sustainable land management;
9) Achieve land degradation neutrality in the country by 2030;
10) Ensure the protection of wetlands, river banks, hilltops and slopes from unsustainable practices to prevent soil erosion and environmental degradation et cetera.[58]

Waste

1) Enforce the implementation of the Harmful Waste Act (2004) and related national laws and regulations;
2) Set up and enforce standards for sanitary facilities for the disposal of human and solid waste in dwellings, estates, public facilities in both rural and urban areas;
3) Regulate, register and license all major land waste disposal sites and systems;
4) Determine the use of environmentally safe and technological sound techniques for the disposal of toxic, hazardous and radioactive wastes;
5) Control generation of toxic, hazardous and radioactive wastes, especially those that are banned;
6) Evolve a clean environment where waste is managed and landscaped on a sustainable basis;
7) Secure and enforce a legislative ban on plastic bags;
8) Promote and support 'waste to wealth' initiatives at all levels;

[58].(n 54).

9) Enhance the capacity of NOSDRA to effectively handle oily waste, et cetera.[59]

Noise Pollution

1) Develop and implement a national environmental noise policy;
2) Develop and implement national strategies on air, water and noise pollution;
3) Provide guidelines for the abatement of air, noise and water pollution;
4) Strengthen capacity and infrastructure to monitor environmental (air, water and noise) pollution;
5) Design and map national air and noise control zones and declare air quality objectives for each designated air control zone;
6) Establish ambient air, noise and water quality standards and monitoring stations at each designated zones, et cetera. [60]

Implementation of National Policy on Environmental Degradation in Nigeria

The National Policy on the Environment (Revised 2016) contains the legal framework for the implementation of the policy. Hence, the above listed government policies on the seven (7) areas are implementable through the instrumentality of the law, as a legal framework was made an integral part of the national policy in paragraph 1 with the view to consolidating, strengthening, providing and extending legislation for environmental protection and improvement in all spheres while also providing for effective implementation and enforcement procedure.[61] Note that section 20 of the 1999 Constitution, particularly in its paragraph 3, as contained in Chapter 2 under fundamental objectives and directive principles of state policies provides for the protection of the environment.[62] The relevance of the Constitution to environment lies in the fact that it should lay the foundation for the legal framework for the enforcement and protection of the environment by empowering the citizens to have legal standing and access to justice to be able to protect and enforce the protection of a clean and healthy environment and sustainable development,[63] as contained in paragraph 2.

Similarly, in paragraph 4 of the same legal framework, the national action plan for the promotion and protection of human rights in Nigeria, November 2002 at page 52, recognizes the right

[59] Ibid.
[60] (n 54).
[61] (n 54) 49.
[62] CFRN 1999, s 20
[63] Ibid.

to environment and states that the federal government has the following constitutional obligations, namely the government recognizes that everyone in Nigeria has the right to (i) an environment that is not harmful to her or his health or well being; (ii) have the environment protected for the good of present and future generations through reasonable laws and other way of (iii) preventing pollution and ecologically degradation; (iv) promoting conservation and; (v) securing ecologically sustainable development and use of our natural resources, while at the same time promoting valid economic and social development.[64] Hence, the government will:

1. Take measures to promote and safeguard the Constitutional right and obligation of the government and citizens to a clean and healthy environment;
2. Ensure the enactment of a streamlined comprehensive environmental management Act within the provisions of the Constitution for sound management of the environment;
3. Partner with relevant sectors to ensure review and harmonization of related extant environmental policies, laws and regulations in line with current and emerging global issues, best standards and practices;
4. Ensure harmonization of sectoral laws with the environmental management Act and their implementation;
5. Partner/support the development of professional bodies to standardize practice and promote quality in environmental management and governance to achieve the goals of this policy.[65]

From the legal framework for the implementation of the national policy on the environment, particularly in its paragraphs 1, 2, 3 and 4, it has been observed that emphasis is placed on the Constitutional provision of section 20 which provides for environmental protection in Nigeria, as an instrument that should lay the foundation for the legal framework for the enforcement and protection of the environment, to enable citizens have access to environmental justice and clean and healthy environment.

CONCLUSION/RECOMMENDATION

Environmental degradation undoubtedly has dire or deleterious impacts on human rights and the wellbeing of the Nigerian citizens. Its effects on human rights in Nigeria cannot be over-emphaized as human health and other well beings of Nigerians are jeopardized to the level that their rights to a clean

[64] (n 54)..
[65] (n 54) 49, 50.

environment are grossly abused owing to human activities that have immensely polluted the Nigerian environment.

The judicial activism displayed by Nigerian Courts and the African Commission on Human Rights, in some of the cases bordering on environmental pollution and degradation and its adverse effects on the people wherein the courts respectively held that environmental pollution is a violation of citizens' rights to life, human dignity and right to health, and clean environment, and that the acts of the defendants in these cases (particularly, *Jonah Gbemre v SPDC and SERAC v Nigeria*) are 'unconstitutional', provide responses to some of the challenges occasioned by environmental degradation, which affects the rights of the Nigerian citizens.

Also, Nigeria has a national policy framework with which she can combat the menace of environmental pollution in Nigeria. Very critical is its implementation through legal instruments for the sole purpose of realization of rights to a healthy environment in Nigeria, as clearly spelt out in the implementation section of the policy. Hence, the national policy on environmental degradation in Nigeria and its implementation are targeted at guaranteeing the human right to a clean, safe and protected environment for all Nigerians.