CRITICAL EXAMINATION OF HUMAN RIGHTS NORMS IN ENVIRONMENTAL PROTECTION IN NIGERIA: NEW DISCOVERIES FROM OTHER JURISDICTIONS

E. A. Essang, Esq.*
Darrick Achesomie Jnr.**
Nkiru Umeonaku***

ABSTRACT

This article examined enforcement of human rights in environmental protection in Nigeria. The article adopted the doctrinal method of research with primary sources of information derived from legislation and case laws, while the secondary sources were derived from textbooks and journal articles. The article found out that there are several problems with the enforcement of human rights in environmental protection in Nigeria. These problems include lack of political will and lack of adequate monitoring and enforcement mechanisms to ensure compliance with environmental laws. The article concluded that there are both challenges and opportunities for enforcing human rights in environmental protection in Nigeria. The article recommends, among others, that there should be increased funding and capacity for environmental institutions, such as National Environmental Standards, Regulations and Enforcement Agency and the Federal Ministry of Environment; passage and implementation of new environmental laws and regulations, including a comprehensive climate change law; and strengthening public participation in environmental decision-making.

Key words: Human Rights, Environmental Protection and Environment

INTRODUCTION

In Nigeria, it is incontrovertible that all laws derive their existence and validity from the Constitution of the Federal Republic of Nigeria. Specifically, section 1(1) and section 1(3)[1] provides in unequivocal terms that the Constitution is supreme, and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria. Further, section 1(3) provides that if any other law is inconsistent with the provisions of this constitution, this constitution shall prevail, and that other law shall to the extent of the inconsistency be void. The Supreme Court in *Abacha v Fawehinmi*[2] held,

* E. A. Essang, Esq, LLB (Uyo); BL (Abuja); LLM (RSU, Distinction); PhD (In View) RSU; Legal Researcher African Legal Support Facility, AfDB, Cote d' Ivoire; 08128710639; edemumohessang@gmail.com.
** Darrick Achesomie Jnr, LLB; (RSU); BL (Abuja); LLM (In View).
*** Nkiru Umeonaku, LLB; (Madonna); BL (Abuja).
[1] Constitution of the Federal Republic of Nigeria, 1999 (as amended).
[2] [2001] 51 WRN 29.

inter alia that it is necessary to get our bearings right. The Constitution is the supreme law of the land, it is the *grundnorm.* The supremacy has never been called to question in ordinary circumstances.[3]

The question for determination is whether the Constitution of the Federal Republic of Nigeria guarantees Nigerian citizen a right to a clean and healthy environment. Therefore, the beginning of this pertinent question must be the consideration of some key sections of the 1999 Constitution on this critical issue which includes sections 13, 17 and 20.[4] Section 13 provides that it shall be the duty and responsibility of all organs of government and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this chapter of the constitution. Further, section 17 of the 1999 Constitution deals with social objectives and states that the state social order shall be founded on ideals of freedom, equality and in furtherance of this, section 17 (2) (d) provides that the exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community shall be prevented.[5]

Thus, the above-mentioned provisions expressly imply that the government of Nigeria should always take necessary steps to protect the rights of the people formulated to exploit the natural and human resources of the State. Naturally, such steps include measures against environmental hazards capable of destroying life and property as well as the provision of compensation for victims of environmental degradation due to exploitation of natural resources by the government. Thus, section 20 of the 1999 Constitution provides that the State shall protect and improve the environment and safeguard the water, air and land, forest, and wildlife of Nigeria. Further, Uwaifo JSC noted in the case of *AG of Lagos State v AG Federation and Ors*,[6] that the provision of section 20 appears for the first time in Chapter 2 of the Constitution which is titled 'Fundamental Objectives and Directive Principles of State Policy. Section 6 (6) (c) of the constitution provides that the judicial powers vested in accordance with the provisions of the constitution shall not, except as otherwise provided by the constitution, extend to any issue or any laws as to whether any act or omission by any authority or person or as to whether any laws or any judicial decision is in conformity with the fundamental objectives and directive principles of state policy set out in chapter 2 of the Nigerian constitution.

[3] *AG Abia State v AG Federation* [2003] 6 NWLR (Pt 763) 264, 497,
[4] (n 1).
[5] CFRN, 1999.
[6] [2003] SWLR (Pt 168) 909.

Further, enquiry has also been made to the African Charter on Human and Peoples Right[7] which offers a solution to the non-justiciability of the right to a protected environment under the Nigerian constitution. The Charter is an amalgam of the existing generation of human rights by making provisions for certain political and civil rights, collective social and economic rights and the right to development which embraces among others, the right to security and the right to a general satisfactory environment.

In Nigeria, the African Charter on Human and Peoples' Rights has been enacted as a local law titled 'African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act,[8] which has now become part of the local laws in Nigeria. Article 24 of the Charter specifically provides that 'All peoples shall have the right to a general satisfactory environment favourable to their development. Thus, in *Abacha v Fawehinmi*[9], the Supreme Court held that the Charter having been re-enacted as part of the laws of Nigeria has the force of law within the Federal Republic of Nigeria. Ejiwunmi JSC observed in the case that the African charter on Human and Peoples' Rights, having been passed into our municipal law, our domestic courts certainly have the jurisdiction to construe or apply the treaty. It follows then that anyone who feels that his rights as guaranteed or protected by the charter have been violated could well resort to its provisions to obtain redress in our domestic court. Despite the above pronouncements, the Supreme Court held that the charter was not superior to the constitution. Therefore, the conflict between section 20 of the constitution and article 24 of the African Charter will be resolved in favour of the Nigerian constitution. In furtherance of this decision, it is doubtful if the charter can be used to elevate environmental rights from their non-justifiable status to justiciable rights.[10] However, the case of *Gbemre v SPDC and Others*, avails justiciability both under the Nigerian Constitution and the African Charter, 1981.

Therefore, it may be said that while there is no constitutional right in Nigeria to a clean and healthy environment, the right to enforce such right through the judicial process is available individually through the Constitution of Nigeria and indirectly under the international treaties and conventions signed and ratified by Nigeria. Therefore, it is indisputable that the enforcement and

[7] Cap LFN, 1990.
[8] Cap LFN, 1990.
[9] [2001] 51 WRN 29.
[10] *Abacha v Fawehinmi* (2000) 14 NWLR 288.

indeed the litigation of environmental rights and claims in Nigeria will remain an uphill and herculean task to litigants or aggrieved persons unless urgent steps are taken to devise adequate legal mechanisms to protect man and the environment from the hazardous and negative effects of modern technology and civilization.[11] Perhaps, nowhere else are reliable and realistic environmental policies and legal machinery for the protection and promotion of a sustainable environment for human rights development more desirable than in Nigeria which, over the years, has experienced grave abuses of human rights and wanton disregard for lives and properties.

This article is carefully hinged on discussing the environmental human rights norms and the need for protection under the various human rights legislations in Nigeria.

CHALLENGES OF ENVIRONMENTAL HUMAN RIGHTS

There are several problems with the enforcement of human rights in environmental protection in Nigeria. One of the main problems is a lack of political will. The government has not taken adequate action to address the problems of environmental degradation and pollution. This has resulted in several negative impacts on human rights, including a lack of access to clean water and air, and an increase in health problems. Secondly, there exists the problem of funding; the government has not allocated enough resources to address environmental problems, which has led to a lack of capacity to enforce environmental laws and regulations.[12] This has also resulted in a lack of adequate monitoring and enforcement mechanisms to ensure compliance with environmental laws. In addition, there is a lack of coordination between government agencies responsible for environmental protection. This has led to confusion and duplication of efforts, which has been ineffective in addressing environmental problems.

Thirdly, lack of public awareness about environmental issues is another problem in Nigeria. Many people are not aware of their rights to a clean and healthy environment, and they do not know how to hold the government accountable for violations of those rights. This has resulted in lack of participation in environmental decision-making, and a lack of pressure on the government to act on environmental issues.[13]

[11] O Awolowo, 'Environmental Rights and Sustainable Development in Nigeria' [2015] (35) *Journal of Law, Policy, and Globalization* 20-25.
[12] O Awolowo, 'Environmental Rights and Sustainable Development in Nigeria' [2015] (35) *Journal of Law, Policy, and Globalization* 20-25.
[13] Ibid.

Finally, there is a lack of political will on the part of the Nigerian people to act on environmental issues. Many people do not see environmental protection as a priority, and they are not willing to make the necessary sacrifices to address the problems. This has led to a lack of public support for environmental policies and initiatives, which has further limited the effectiveness of the government's efforts.

LEGAL FRAMEWORKS FOR ENVIRONMENTAL RIGHTS PROTECTION

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

The Constitution of the Federal Republic of Nigeria (CFRN) of 1999, as amended, is the supreme law of the country. It contains several provisions that are relevant to the enforcement of human rights in environmental protection. These include section 20 of the Constitution, which guarantees the right to a healthy and safe environment, section 17 of the Constitution, which guarantees the right to life and dignity of the human person,[14] section 13 of the Constitution, which guarantees the right to private property, section 38 of the Constitution, which guarantees the right to freedom of movement, section 43 of the Constitution, which guarantees the right to compensation for the compulsory acquisition of private property for public purposes, and section 44 of the Constitution, which guarantees the right to environmental justice. These provisions have been used to protect the rights of individuals and communities in environmental disputes, such as cases involving oil spills, land degradation, and water pollution. However, enforcement of these rights has been challenging due to a lack of capacity and resources, as well as a lack of political will in some cases.[15]

There are several challenges to the enforcement of human rights in environmental protection under the Nigerian Constitution. Some of these challenges include lack of clarity in the Constitution on what constitutes a violation of the right to a healthy and safe environment, lack of specific legislation to implement the provisions of the Constitution relating to environmental protection, lack of resources and capacity to enforce the provisions of the Constitution, lack of political will to enforce the provisions of the Constitution, lack of public awareness about the rights guaranteed by the Constitution and lack of an independent and impartial judiciary to adjudicate on environmental.

[14] CFRN, 1999.
[15] Ibid.

Petroleum Industry Act, 2021

The Act aims to streamline the sector by creating a regulatory framework for the industry, clarifying the role of different stakeholders, and improving the governance of the sector. It also provides for the establishment of a new regulator, the Nigerian Upstream Regulatory Commission (NUPRC), which will oversee the upstream sector of the oil and gas industry. The Act also seeks to address some of the challenges facing the Nigerian oil and gas industry, such as corruption, insecurity, and environmental pollution. It is hoped that the Act will bring about a more competitive, transparent, and accountable oil and gas sector in Nigeria. However, some critics have raised concerns that the Act does not go far enough in addressing the concerns of local communities affected by the oil and gas industry.[16]

There are several key sections of the Petroleum Industry Act that relate to the enforcement of human rights in the context of environmental protection. These include section 11 of the Act, which provides for the protection of the rights of host communities. It stipulates that at least 2.5% of the operating expenditure of a petroleum production company must be paid to host communities for the socio-economic development of the areas; section 18 of the Act, which requires operators to obtain the free, prior and informed consent of the host communities for any project that may affect their rights; and section 31 of the Act, which provides for the establishment of a new body, the National Oil Spill Detection and Response Agency (NOSDRA), to investigate and prosecute cases of oil spills. NOSDRA is also tasked with ensuring the protection of communities affected by oil spills. Furthermore, section 47 of the Act prohibits the flaring of gas and provides for penalties for any company that flouts this rule. Gas flaring has been one of the major environmental issues in Nigeria, as it has led to air pollution and health problems for communities living near oil production facilities.[17]

There are several challenges that need to be addressed for the Petroleum Industry Act to effectively enforce human rights in the context of environmental protection in Nigeria. These challenges include lack of capacity and resources within the new regulatory bodies established by the Act, such as the NOSDRA; lack of political will to enforce the provisions of the Act, particularly with regards to oil companies; and lack of trust among the government, oil companies, and local communities. This has been exacerbated by a history of human rights abuses, corruption, and

[16] PIA, 2021.
[17] PIA, 2021.

environmental damage caused by the oil industry and the conflict between the commercial interests of oil companies and the need to protect the environment and the rights of local communities. This is particularly evident in the case of gas flaring, where there is a conflict between the need to reduce emissions and the need to maintain production levels.

National Environmental Standards, Regulation and Enforcement Agency Act, 2007

The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act was enacted in 2007 to provide for the establishment of a regulatory agency to oversee the implementation of environmental standards and regulations in Nigeria. The Act was a response to the growing environmental problems in the country, including air and water pollution, deforestation, and land degradation.[18] It was also intended to address the weaknesses of the former environmental regulatory body, the Federal Environmental Protection Agency (FEPA), which was seen as ineffective and unable to enforce environmental standards.

NESREA has the mandate to develop and enforce environmental standards. The NESREA Act, section 20 is relevant to the enforcement of human rights in environmental protection. It provides for the right of people to a clean and healthy environment, and the right to information about environmental matters. It also makes provision for the prevention and control of environmental pollution, including the control of hazardous substances and emissions. In addition, Section 21 of the Act provides for the enforcement of environmental standards and regulations through the imposition of sanctions, including fines and imprisonment. This is intended to ensure that environmental laws are effectively enforced and that those who breach them are held accountable protecting the environment and upholding human rights.[19] It has been criticized for its lack of independence from the government, which has led to allegations of corruption and bias. There have also been questions about the adequacy of its budget and resources. Furthermore, section 31 of the Act is also relevant to the enforcement of human rights in environmental protection. It provides for public participation in the decision-making process for environmental matters, including access to information and the right to comment on proposed projects.[20]

The NESREA Act has faced several challenges in relation to the enforcement of human rights in environmental protection. Some of these challenges include lack of capacity and resources within

[18] NESREA, 2007, s 1-5.
[19] (n 18).
[20] NESREA, 2007, s 10-15.

the agency, which has led to a backlog of cases and a lack of enforcement of environmental laws; weak legal enforcement, with many cases ending in out-of-court settlements that do not provide adequate compensation for victims or require offenders to make changes to their operations; and lack of transparency and accountability, with little information available about the progress of cases or how decisions are made.

Environmental Health Officers (Registration etc) Act, 1992

The Environmental Health Officers Registration Act, 1992, was enacted to regulate the profession of environmental health officers in Nigeria.[21] The Act requires all environmental health officers to be registered with the Council of Environmental Health Officers of Nigeria (CEHON). CEHON is responsible for setting standards for the education and training of environmental health officers, as well as monitoring and evaluating their performance. The Act also provides for the discipline of environmental health officers who breach the code of ethics or professional standards. Section 4 of the Act provides for the registration of environmental health officers with the CEHON.

There are several key sections of the Environmental Health Officers Registration Act that are relevant to the enforcement of human rights in environmental protection in Nigeria. These include section 6, which provides for the registration of environmental health officers with the CEHON to be made conditional upon the officer's fulfilment of requirements such as the possession of a degree in environmental health or a relevant qualification, and the successful completion of a one-year internship. Furthermore, section 7, provides for the Council to discipline a registered environmental health officer who is found guilty of professional misconduct, incompetence, or a breach of the code of ethics.

One of the main challenges of the Environmental Health Officers Registration Act is the lack of enforcement of its provisions. This has led to the proliferation of unregistered environmental health officers, who often lack the necessary qualifications and experience to effectively protect the environment and promote human health. This has also contributed to a lack of trust in the profession, and a lack of confidence in the ability of environmental health officers to effectively protect the environment and promote human health. Other challenges include the lack of resources for the Council to carry out its duties, such as monitoring and evaluating the performance of environmental health

[21] CEHON, 1992.

officers. This has led to a lack of accountability and transparency in the system, which has undermined public trust in the profession; lack of political will to implement the provisions of the Act. This has led to a lack of political support for the enforcement of environmental laws, and a lack of resources for the Council to carry out its duties. This has created a situation where environmental health officers are often unable to carry out their duties effectively, and where there is little accountability or oversight.

Ozone Layer Protection Act, 1992

The Ozone Layer Protection Act, 1992, was enacted to protect the ozone layer from depletion by regulating the production, importation, exportation, and sale of substances that deplete the ozone layer.[22] This Act was based on the Vienna Convention for the Protection of the Ozone Layer, and the Montreal Protocol on Substances that Deplete the Ozone Layer. Section 4 of the Act provides for the establishment of the National Ozone Unit, which is responsible for monitoring and implementing the provisions of the Act. The unit is also responsible for coordinating with international bodies and agencies to ensure that Nigeria meets its obligations under the Vienna Convention and the Montreal Conventions.

There are a few key sections of the Ozone Layer Protection Act that are relevant to the enforcement of human rights in environmental protection in Nigeria. These include section 6, which provides for the regulation of the importation, exportation, and sale of substances that deplete the ozone layer. This section requires all importers and exporters of these substances to register with the National Ozone Unit, and to obtain a license before engaging in any trade in these substances[23]. Furthermore, section 7 provides for the inspection of facilities that produce or use substances that deplete the ozone layer.[24] There are several challenges that have been identified with the Ozone Layer Protection Act in relation to its enforcement and human rights. These challenges include lack of awareness of the Act among businesses and individuals that use substances that deplete the ozone layer. This has led to a lack of compliance with the Act, lack of enforcement by the National Ozone Unit, lack of resources to carry out inspections and enforce the provisions of the Act. It has also led to a lack of compliance by businesses and individuals and lack of political will to enforce the provisions of the Act.

[22] Ozone Layer Protection Act, 1992, s 1-4.
[23] (n 22).
[24] Ibid, s 7-19.

INTERNATIONAL LEGAL INSTRUMENTS

Universal Declaration on Human Rights, 1948

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on December 10, 1948. It was a result of years of negotiations following the atrocities of World War II. The Declaration set out 30 articles of human rights that all people around the world should enjoy. It was the first time that fundamental human rights had been codified in such a way. The UDHR has become a foundational document for international human rights law.[25]

There are several articles in the UDHR that can be considered relevant to environmental protection and the enforcement of human rights in this area. These include article 1, which provides that 'All human beings are born free and equal in dignity and rights.' This article establishes the basic principle that all people have an inherent right to dignity and respect, and that no one should be discriminated against based on their race, gender, religion, or other characteristics.

Article 12 provides that 'No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.' This article guarantees individuals the right to privacy and protection from arbitrary interference in their lives. Article 25 provides that 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.' This article sets out the right to an adequate standard of living, which includes access to clean water, air, and a healthy environment. Article 28 provides that 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.' This article recognizes that human rights must be protected by governments and institutions at the national and international level.[26]

One of the main challenges in relation to the UDHR and environmental protection is the lack of specific enforcement mechanisms. While the Declaration sets out the rights of individuals, it does not specify how these rights should be enforced or what the consequences are for countries that violate them. There have been attempts to create an international legal framework for environmental protection, such as the Convention on Biological Diversity and the Paris Agreement on climate change. However, these treaties have been limited in their effectiveness and are often not fully implemented

[25] UDHR, 1948.
[26] UDHR, 1948.

by countries. There is still a need for stronger mechanisms to enforce human rights related to the environment.

Stockholm Declaration on Human Environment and Development, 1972

The Stockholm Declaration on Human Environment and Development was adopted by the United Nations Conference on the Human Environment in Stockholm, Sweden, in 1972. It was the first international treaty that addressed environmental concerns, and it included several principles related to environmental protection. These principles include the right to a healthy and sustainable environment, responsibility of countries to protect the environment and manage natural resources, need for environmental impact assessments, and need for cooperation and solidarity between countries in protecting the environment.

The Stockholm Declaration includes several key sections related to enforcement of human rights and environmental protection. This includes principle 21 which provides that, 'States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.' Principle 22 provides that 'states shall cooperate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control.[27]

There were several challenges related to the implementation of the Stockholm Declaration. One of the main challenges was a lack of clarity on how to implement the Declaration's principles. The Declaration did not specify how countries should implement its principles, and it did not provide specific mechanisms for enforcement. Many developing countries lacked the financial and technical resources to implement the principles of the Stockholm Declaration. This was especially true for the Principle of Common but Differentiated Responsibilities, which placed a greater burden on developed countries to take action to protect the environment. Despite these challenges, the Stockholm Declaration was an important step in recognizing the link between human rights and environmental

[27] Stockholm Declaration on Human Environment and Development, 1972.

protection. It laid the foundation for future agreements, such as the Rio Declaration on Environment and Development, which built on the principles of the Stockholm Declaration.

Aarhus Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, 1998

The Aarhus Convention, formally known as the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, is an international treaty that was adopted in 1998 and entered into force in 2001. It applies to the 47 member states of the United Nations Economic Commission for Europe (UNECE) and is the first treaty that establishes legally binding obligations relating to environmental democracy.[28]

The Aarhus Convention was developed in response to growing concerns about the lack of public participation in environmental decision-making. It aims to ensure that the public has access to information about environmental issues, the opportunity to participate in decision-making on these issues, and the ability to seek justice if their rights under the Convention are violated.[29] The Aarhus Convention has been influential in promoting transparency and public participation in environmental decision-making and has been cited as a model for similar treaties in other regions. However, there have been challenges in implementing the Convention, particularly in relation to access to justice.[30]

The Aarhus Convention contains a number of articles that are relevant to the enforcement of human rights and environmental protection, including article 6 which provides that,

> each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information related to the environment has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of this Convention, has access to review procedures before a court of law or another independent and impartial body established by law.

[28] Aarhus Convention on Access information, Public Participation in Decision Making and Access to Justice in Environmental Matters, 1998.
[29] Ibid.
[30] Aarhus Convention on Access information, Public Participation in Decision Making and Access to Justice in Environmental Matters, 1998.

This article ensures that individuals have a right to access information and to have their concerns heard through an independent and impartial review mechanism. Article 9 provides that'

> each Party shall, within the framework of its national legislation, ensure that members of the public concerned: (a) having a sufficient interest or, alternatively, being affected by, or having their interests affected by, the environmental decision, have the opportunity to participate during the preparation of the environmental decision, and at an early stage; (b) may participate in, and express comments and opinions on, the environmental decision through written submissions and, where appropriate, orally, and that due account shall be taken of any such submissions.

This article ensures that individuals have the right to participate in environmental decision-making and to have their comments and concerns considered. One of the key challenges in implementing the Aarhus Convention is that it does not have a strong enforcement mechanism. There is no specific body that oversees the implementation of the Convention, and the mechanisms for ensuring compliance are largely voluntary. This has led to concerns that some countries are not fully complying with their obligations under the Convention.

EVALUATION OF THE CHALLENGES OF THE INSTITUTIONAL FRAMEWORKS FOR ENFORCEMENT OF HUMAN RIGHTS IN ENVIRONMENTAL PROTECTION IN NIGERIA

There are several challenges facing the institutional frameworks for enforcement of human rights in environmental protection in Nigeria.[31] First, there is a lack of coordination between different government agencies responsible for environmental protection. Second, there is a lack of capacity within these agencies to effectively enforce environmental laws and regulations.[32] Third, there is a lack of financial resources to properly fund environmental protection activities. Fourth, there is a lack of public awareness and understanding of environmental issues, which makes it difficult to build public support for environmental protection initiatives.[33] Finally, there is a lack of political will to prioritize environmental protection, which limits the ability of government agencies to effectively address environmental issues.

[31] (n 30).
[32] Aarhus Convention on Access information, Public Participation in Decision Making and Access to Justice in Environmental Matters, 1998.
[33] Ibid.

To illustrate the challenges facing the institutional frameworks for environmental protection in Nigeria, consider the case of the Niger Delta region.[34] This region has been heavily impacted by oil and gas exploration and production, which has caused significant environmental damage. For instance, oil spills have contaminated drinking water, agricultural land, and fishing grounds, causing health problems for residents and damaging livelihoods. Despite the environmental damage, the Nigerian government has not taken effective action to hold the oil and gas companies accountable for their actions or to ensure that adequate compensation is provided to affected communities. An instance is the case of deforestation in Cross River State.

Deforestation is causing serious problems for the local communities, including a loss of biodiversity, a decline in water quality, and an increase in flooding and landslides. However, the Cross River State government has not taken adequate steps to enforce the environmental laws that are in place; there is little political will to address this issue. These examples illustrate the challenges of institutional frameworks for environmental protection in Nigeria, including a lack of political will, a lack of capacity, and a lack of resources.[35]

To overcome the challenges facing the institutional frameworks for environmental protection in Nigeria, it is important to strengthen the capacity of government agencies, improve coordination between different government agencies, and increase public awareness and engagement. It is also important to provide adequate funding for environmental protection activities and to ensure that there is political will to prioritize these issues. Additionally, it is important to strengthen the legal framework for environmental protection, including updating environmental laws and regulations and increasing penalties for violations.[36] Finally, to achieve lasting solutions, it is important to address the root causes of environmental degradation, such as poverty and inequality.

ASSESSMENT OF THE LEGAL FRAMEWORKS FOR ENFORCEMENT OF HUMAN RIGHTS IN ENVIRONMENTAL PROTECTION IN THE UNITED KINGDOM

[34] G S Munoz, 'Human Rights in the Shadow of Climate Change' [2019] (50) (3) *Georgetown Journal of International Law* 673-692.
[35] n34
[36] E A Hall and W Twining, *Human Rights in Modern World* (3rd London UK) 30-35.

The legal framework for enforcement of human rights in environmental protection in the United Kingdom is generally considered to be stronger than in Nigeria. The UK has a robust system of environmental law, including the Environmental Protection Act 1990, the Climate Change Act 2008, and the Human Rights Act 1998. These laws provide strong protections for the environment and for human rights, and they are generally well-enforced. The UK also has several well-funded and well-resourced environmental agencies, such as the Environment Agency and the Department for Environment, Food and Rural Affairs. These agencies have the capacity to effectively enforce environmental laws and regulations.[37]

There are, however, some weaknesses in the UK's legal framework for environmental protection. First, the UK's environmental laws do not fully incorporate the rights of future generations, which means that decisions about the environment are often made without considering the long-term impacts on future generations. Second, there are gaps in the enforcement of environmental laws, particularly in pollution. Finally, there is a lack of public awareness and engagement with environmental issues, which limits the ability of citizens to hold the government accountable for its environmental policies.

ASSESSMENT OF THE LEGAL FRAMEWORKS FOR ENFORCEMENT OF HUMAN RIGHTS IN ENVIRONMENTAL PROTECTION IN THE UNITED STATES OF AMERICA

Existence of Robust Legal Frameworks

The legal framework for enforcement of human rights in environmental protection in the United States is strong, with several laws and regulations designed to protect the environment and human health. The key piece of legislation is the Clean Air Act, which was passed in 1970 and has been amended several times since then. This law gives the Environmental Protection Agency (EPA) the authority to regulate air pollutants, including greenhouse gases. The Clean Water Act, the Endangered Species Act, and the Toxic Substances Control Act are also important pieces of legislation that protect the environment and human health.[38]

However, like the United Kingdom, the United States of America legal framework for environmental protection has some weaknesses. One major weakness is the lack of a comprehensive

[37] Ibid.
[38] C Han, 'From Climate Change to Human Rights: Moving Beyond Technocracy' [2016] *American Journal of Law and Environment*, 20-35.

framework for dealing with climate change. While the EPA has the authority to regulate greenhouse gases, there is no comprehensive federal policy on climate change. This has led to a patchwork of state and local policies, which can be confusing and ineffective.[39] Additionally, enforcement of environmental laws is often inconsistent and can be influenced by political factors. Finally, there is also a lack of public awareness and engagement around environmental issues, which can make it difficult to address environmental problems.[40]

LESSONS FROM THE UNITED KINGDOM

One of the key lessons from the UK that can be applied to Nigeria is the importance of a strong and consistent enforcement of environmental laws. In the UK, the Environment Agency and other agencies have the power to impose fines and other sanctions for non-compliance with environmental regulations.[41] This helps to ensure that businesses and individuals are held accountable for their actions, and it provides a strong incentive to comply with environmental laws. Another important lesson is the importance of public awareness and engagement around environmental issues. The UK has several organizations that work to educate the public about environmental issues and advocate for stronger environmental protection.[42] These organizations play a crucial role in holding the government accountable and in promoting positive change. Lastly, the UK's legal framework also emphasizes the need for a holistic approach to environmental protection. This means that different aspects of environmental protection, such as air quality, water quality, and biodiversity, are all considered together. This approach helps to ensure that environmental protection is considered in a comprehensive and effective way.[43]

LESSONS FROM THE UNITED STATES OF AMERICA

One of the key lessons from the US that can be applied to Nigeria is the importance of integrating environmental protection into economic development plans. In the United States of America, the EPA

[39] Ibid.
[40] Ibid.
[41] A A Klotz, 'The Politics of Human Rights in a Carbon-Constrained World' [2013] *Journal of Law and Policy* 30-45.
[42] n41
[43] Ibid.

works closely with other agencies, such as the Department of Energy and the Department of Commerce, to ensure that environmental protection is considered in economic development plans. This helps to create incentives for businesses to invest in environmentally friendly practices, and it helps to ensure that environmental protection is not seen as a burden on economic growth. Another important lesson is the need for strong public-private partnerships in environmental protection.[44]

APPLICATION OF THE LESSONS DRAWN FROM THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA IN NIGERIA

To utilize the lessons learned from the UK and the US, it will be important for Nigeria to develop a comprehensive legal and institutional framework for environmental protection. This framework should include strong enforcement mechanisms, public-private partnerships, and a holistic approach to environmental protection. Additionally, the framework should emphasize the importance of public awareness and engagement, and it should be tailored to the specific needs and challenges of Nigeria. Given the complex challenges facing Nigeria, including poverty, corruption, and weak institutions, implementing these lessons will not be easy. However, with sustained effort and international support, it is possible to make progress on environmental protection in Nigeria.[45]

One way to start implementing these lessons would be to strengthen the capacity of the Federal Ministry of Environment and other agencies responsible for environmental protection. This could include providing training and technical assistance, improving coordination between agencies, and providing adequate funding. Additionally, the government could work to increase public awareness of environmental issues through education campaigns and the use of traditional and social media. Finally, the government could promote public-private partnerships by providing incentives for businesses to invest in environmentally friendly practices.[46]

CONCLUSION

[44] J Anaya, 'The Limits of Human Rights for Environmental Justice' [2011] *Journal of Law, Environment and Natural Resources* 20-25.
[45] A A Klotz, 'The Politics of Human Rights in a Carbon-Constrained World' [2013] *Journal of Law and Policy* 30-45.
[46] Ibid.

In conclusion, there are both challenges and opportunities for enforcing human rights in environmental protection in Nigeria. On the one hand, the government has taken some positive steps to address environmental issues, and there is growing public awareness and support for environmental protection. On the other hand, there are significant challenges to overcome, including weak government commitment, limited resources, and a lack of capacity in civil society. However, there is potential for change, and with sustained effort and cooperation, it is possible to improve environmental protection in Nigeria.

RECOMMENDATIONS

The article makes the following recommendations:

1. Increase funding and capacity for environmental institutions, such as NESREA and the Federal Ministry of Environment.
2. Pass and implement new environmental laws and regulations, including a comprehensive climate change law.
3. Strengthen public participation in environmental decision-making and ensure that communities are consulted and informed about environmental projects and policies that affect them.
4. Build the capacity of civil society organizations to advocate for environmental protection.
5. Strengthen the enforcement of environmental laws and regulations.
6. Promote transparency and accountability in environmental decision.