

ADDRESSING THE CHALLENGES IN THE ENFORCEMENT OF ENVIRONMENTAL RIGHTS IN NIGERIA

Tamunoipirinye Royal Banigo

ORCID ID: 0009-0009-9524-9266
ipirinyeroyalbanigo@gmail.com

ABSTRACT

The environment is increasingly devastated by both anthropogenic and natural factors to the extent that man no longer feels safe, as his health and general well-being are under unspeakable threats. The right to a clean environment is therefore a fundamental right since a clean and hazard-free environment determines man's existence to live freely and enjoy other rights. The study examined the challenges in enforcing environmental rights in Nigeria, particularly within the context of contemporary legal challenges such as climate change, environmental degradation, and the growing demand for corporate and government accountability. The study also analysed both international and Nigerian legal framework.. The study utilised a doctrinal research methodology by consulting primary sources of law such as the Constitution of the Federal Republic of Nigeria 1999(as amended), the National Environmental Standard and Regulations Enforcement Agency Act, and secondary data garnered from journal articles, books, and newspapers which were subject to content analysis. The study revealed that although Section 20 of the Constitution is generally regarded as non-justiciable, environmental rights have gained recognition through statutory frameworks particularly the African Charter on Human and People's Rights (Ratification and Enforcement) Act as well as judicial interpretation. Nevertheless, Significant institutional, procedural and regulatory challenges continue to impede the effective enforcement of environmental rights in Nigeria. The study further argues that while existing legal frameworks provide avenues for the enforcement of environmental rights, strengthening institutional mechanisms, judicial enforcement and regulatory compliance remains essential to achieving effective environmental protection in Nigeria. Additionally the study observed that environmental litigation remains an important mechanism for promoting environmental justice in Nigeria. The study recommended among other things, that there should be the establishment of specialized environmental divisions within the courts to facilitate the effective determination of environmental disputes.

KEYWORDS: Constitution, Enforceability, Environment, Environmental Rights, Non-Justiciability.

1.0 Introduction

There has been a lengthy debate surrounding the recognition and enforceability of the right to a healthy environment within both national and international legal frameworks. While the Constitution primarily serves as the supreme law of the land, it also functions as an instrument for the protection of fundamental human rights such as life, liberty, and access to justice. Increasingly, the right to a healthy environment has been regarded as an essential component of these rights, given its direct impact on human survival and human dignity.¹ In Nigeria, environmental awareness gained momentum following the toxic waste dumping incident in Koko, Bendel State, which exposed the grave consequences of environmental neglect. The public outcry that followed prompted the government to establish institutional frameworks and enact legislation aimed at environmental protection.² Notwithstanding these developments, the legal recognition and enforcement of environmental rights remain fraught with significant challenges. The 1999 Constitution of the Federal Republic of Nigeria acknowledges the importance of environmental protection by imposing a duty on the state to safeguard and improve the environment under Chapter II. However, these provisions fall within the Fundamental Objectives and Directive Principles of State Policy, which by virtue of Section 6(6)(c) of the Constitution, are generally non-justiciable. Although this constitutional position limits the direct enforcement of Section 20, subsequent legislative developments particularly the domestication of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, as well as judicial interpretation have provided alternative avenues for the enforcement of environmental rights in Nigeria. Nevertheless, challenges such as weak institutional frameworks, limited environmental awareness, inadequate enforcement mechanisms and practical difficulties associated with environmental litigation continue to impede the effective enforcement of environmental rights in Nigeria.

In the face of growing environmental threats such as pollution, deforestation, and climate change, these limitations undermine accountability and restrict access to effective remedies.³ Furthermore, this gap undermines Nigeria's commitments under various

¹ Brown Etareri Umukoro, and Oghenerukevwe Ituru, 'Conceptual Challenges to the Recognition and Enforcement of the Right to Clean, Safe and Healthy Environment' *Journal of Environmental Law & Policy* (2022) 02(02) 1-28 <<https://grassrootsjournals.org/jelp/jelp02-02-01-umukoro-ituru-m00303.pdf>> accessed 15 March 2026.

² S Ogbodo 'Environmental Protection in Nigeria: Two Decades after the Koko Incident' (2009) <https://www.researchgate.net/publication/254606931_Environmental_Protection_in_Nigeria_Two_Decades_After_the_Koko_Incident> accessed 15 March 2026.

³ G P Dafiel, 'Navigating the Legal Hurdles: A Jurisprudential Analysis of Environmental Protection in Nigerian Courts' (2025)

international and regional environmental instruments, which recognise the right to a healthy environment. It also raises fundamental questions about the normative force of environmental rights within the Nigerian legal system. Accordingly, the persistence of these legal and institutional challenges necessitates a critical examination of the challenges affecting the enforcement of environmental rights in Nigeria, with a view to identifying practical solutions.

The principal aim of this paper is to examine the enforcement of environmental rights in Nigeria by analysing the applicable legal framework, identifying the challenges to enforcement and evaluating practical approaches for improving environmental rights protection. The specific objectives are to:

- a) Examine the legal and institutional framework governing environmental rights in Nigeria.
- b) Identify the key challenges hindering the enforcement of environmental Rights in Nigeria.
- c) Evaluate practical approaches for improving the enforcement of environmental Rights in Nigeria

2.0 Conceptual Clarification

The definitions of each of the key concepts that would be used in this paper vary from one legislation to another, and from one scholar to another. But for the purposes of this work, the meaning to be ascribed to the words used herein would be the definitions adopted below.

2.1 Enforcement

Enforcement refers to the implementation and execution of laws, rules, or rights to ensure compliance and achieve their intended effect.⁴ In the context of environmental rights, enforcement involves the practical measures, legal procedures, and institutional mechanisms that make environmental laws and constitutional rights effective, ensuring that violations are addressed and remedies are provided to affected parties.

<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://ezenwaohaforc.org/journals/index.php/AJLHR/article/download/3211/3350&ved=2ahUKEwj9z9Wv19eVAXWiWUEAHfsRLj0QFnoECB0QAAQ&usq=AOvVaw1SuqrgL65eKm_ieZ_1Vqd3> accessed 15 March 2026.

⁴ BA Oloworaran, 'The Right to a Clean and Healthy Environment and the Fundamental Rights Provisions of the Constitution of the Federal Republic of Nigeria 1999' *Petroleum, Natural Resources and Environmental Law Journal* (2009) 1(2) 53.

2.2 Environment

According to the Black's Law Dictionary, the word 'Environment' originates from the French word 'Environ', which means 'surrounding'.⁵ The environment is the natural and social condition surrounding all mankind including future generations. This definition is futuristic and though not in detail, it specifically touches on the issues of sustainability.

2.3 Environmental Rights

Environment has been defined as the totality of physical, economic, aesthetic, and social conditions and factors that influence the desirability and value of property, as well as the quality of people's lives. Environmental rights can therefore be defined as the right of the citizens to have a clean, safe and decent environment and to enforce it in case of violation by the government or private citizens. This definition indicates the need to protect human health, safety and interest. It requires the maintenance of a certain level of environment because of human use and enjoyment of nature.⁶

2.4 Non-Justiciability

Justiciability refers to the quality of a matter or right being capable of determination by a court of law.⁷ The concept of justiciability is the feasibility of a right to be alleged and claimed by individuals or groups before a judicial or quasi-judicial body that can hold a decision indicating when this right has been violated, consequently condemning the responsible State.⁸ The concept of enforceability is considered as a relevant complement to justiciability.⁹

3.0 Legal Frameworks on Environmental Rights

In the absence of regulations governing the affairs of individuals, organisations, and corporate bodies within the nation, significant harm can be inflicted on the environment, resulting in violations of citizens' rights to a secure and healthful environment. This has led to

⁵ Bryan A Garner, Black's *Law Dictionary* (12th edn, Thomson Reuters 2024) 254.

⁶ Emejuru Emenike, Ebikakake, Chukwuma Ajie, 'Right to a Healthy Environment in Nigeria and Other Jurisdictions: a legal assessment' *Global Journal of Politics and Law Research* (2020) 8(3) 19 <<https://www.eajournals.org/wp-content/uploads/Right-to-a-Healthy-Environment-in-Nigeria-and-Other-Jurisdictions.pdf>> accessed 12 March 2026.

⁷ Bryan A Garner (n 5).

⁸ Ibid.

⁹ AB Abdulkadir 'The Right to A Healthful Environment in Nigeria: A Review of Alternative Pathways to Environmental Justice in Nigeria' *Afe Babalola University: Journal of Sustainable Development Law and Policy* (2014) 118 <<https://www.ajol.info/index.php/jsdlp/article/view/122619>> accessed 12 March 2026.

the development of the national legal framework concerning the right to a safe and healthy environment.

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

The Constitution of Nigeria has adopted the concept of fundamental human rights, which is enshrined in Chapter IV, ranging from sections 33 to 46. 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.

However, Section 20 of the 1999 Constitution is situated within Chapter II of the Constitution titled "Fundamental Objectives and Directive Principles of State Policy." Here, "Fundamental Objectives" refer to the ultimate objectives of the nation, while "Directive Principles of State Policy" delineate the pathways leading to these objectives.

It is opined that the primary aim of section 20 is to guarantee a healthy environment for Nigerian citizens. However, despite the laudable and commendable provision of section 20 in the Constitution, the question arises as to whether an individual or aggrieved person has the legal right to seek redress in court for the enforcement of the provisions of section 20. In answering this question, it is important to examine the provision of section 6(6)(c) of the Constitution which provides as follows:.

The judicial powers vested in accordance with the foregoing provisions of this section shall not except as otherwise provided by this constitution, extend to any issue or question as to whether any act or omission by any judicial decision is in conformity with the fundamental objectives and directive principles of state policy set out in chapter II of this Constitution.

The provision of section 6(6)(c) has been interpreted as denying the court the power to adjudicate on matters having to do with the enforceability of the provision of section 20 of the Constitution. This is due to the fact that section 20 is categorized under the fundamental objectives and directive principles of state policy outlined in chapter two of the Constitution, which are generally not enforceable by section 6(6)(c). However, this constitutional position does not entirely preclude the enforcement of environmental rights in Nigeria. Nothing in Chapter II prevents the National Assembly from exercising its legislative powers to enact a

law that would make environmental rights justiciable. The domestication of the African Charter on Human and Peoples Rights Act, together with judicial interpretation of constitutional and statutory rights has provided alternative legal avenues through which environmental rights may be protected and enforced. Accordingly while the combined reading of section 20 and section 6(6) (c) of the Nigerian Constitution demonstrates that Section 20 is not directly enforceable as a fundamental right under Chapter IV of the constitution it does not mean that the environmental rights are completely beyond judicial protection. The constitutional arrangement presents a limitation on direct constitutional enforcement thereby necessitating reliance on other statutory and judicial mechanisms for the protection of environmental rights. Nevertheless, the continued dependence on these alternative mechanisms highlights the need for stronger institutional and legal frameworks to ensure the effective enforcement of environmental rights in Nigeria.

3.2 The National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 (NESREA ACT 2007)

The NESREA, established under the National Environmental Standards Regulatory Agency (Establishment) Act 2007, serves as the principal legislation for environmental protection in Nigeria.¹⁰ This act established an agency under the Ministry of Environment, Housing, and Urban Development tasked with protecting and developing the environment, conserving biodiversity, ensuring sustainable natural resource use, regulating and enforcing environmental standards, regulations, laws, policies, and guidelines.¹¹ The agency's broad functions and powers, detailed in sections 7 and 8, include issuing licenses and permits, monitoring and enforcing compliance, and coordinating with stakeholders to implement environmental laws, and standards.¹²

The agency also ensures adherence to international environmental agreements, reviews existing guidelines and regulations, and sets standards and regulations to prevent, reduce, and eliminate pollution and other forms of environmental degradation.¹³

¹⁰ The National Environmental Standards Regulatory and Enforcement Agency (Establishment) Act 2007

¹¹ National Environmental Standards Regulatory and Enforcement Agency (Establishment) Act 2007, Section 1 and 2.

¹² National Environmental Standards Regulatory and Enforcement Agency (Establishment) Act 2007, Section 7 and 8

¹³ These functions include enforcing compliance with laws, guidelines, policies and standards on environmental matters, including pollution reduction and developing Nigeria's natural resources.

3.3 African Charter on Human and Peoples' Right (Ratification and Enforcement) Act, 2004

The African Charter on Human and Peoples' Rights, adopted in 1981, was domesticated into Nigerian law pursuant to Section 12 of the 1999 Constitution through the enactment of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act by the National Assembly.¹⁴ Section 1 of this Act states that:

As from the commencement of this Act, the provisions of the African Charter on human and people right shall have the force of law in Nigeria and shall be given full recognition and effect and shall be applied by all authorities and persons exercising legislative, executive or judicial power in Nigeria.

The ratification of the ACHPR enables individuals to seek redress for human right violations in Nigeria and for the enforcement of their environmental rights.¹⁵ Amongst the provisions of the African Charter on Human and Peoples' Right (Ratification and Enforcement) Act, Article 24 explicitly addresses the attainment and enforcement of the right to a safe and healthy environment in Nigeria. It provides for the right of all individuals to an environment favourable to their development and well-being. This provision has been construed by the courts to explicitly recognize the right to a safe and healthy environment.¹⁶

Furthermore, the significance of the African Charter in the Protection of environmental rights has been reinforced through judicial and quasi-judicial decisions. In *SERAP v Federal Republic of Nigeria*, the African Commission reaffirmed that the right to a satisfactory environment under Article 24 imposes obligations on the state to take appropriate measures to protect the environment and ensure the enjoyment of environmental rights. The decision further demonstrates that, notwithstanding the non-justiciability of Section 20 of the Constitution, the African Charter provides an important legal basis for the enforcement of environmental rights in Nigeria.

3.4 The Petroleum Industry Act 2021

The Nigerian petroleum industry has undergone a major transformation with the passage of the Petroleum Industry Act (PIA) 2021. The Act includes a number of provisions intended to

¹⁴ Cap A9 LFN 2004.

¹⁵ *Abacha v Fawehinmi* [2000] 4 SCNJ 401.

¹⁶ *Gbemre v Shell Development Co Ltd* [2005] AHRLR 151.

reduce environmental harm and guarantee that petroleum operations are carried out responsibly and sustainably. This is due to the fact that petroleum exploration and production are among the main causes of environmental degradation in Nigeria, especially in the Niger Delta region.¹⁷

One of the major innovations introduced by the Act is the establishment of the Host Community Development Trust (HCDDT)¹⁸. The Trust mandates settlors (petroleum licence holders and lessees) to contribute 3% of their annual operating expenditure from the preceding financial year towards the development of host communities. The primary objectives of the Trust are to improve infrastructure, promote peaceful coexistence between petroleum operators and host communities, support economic and social development, promote sustainable prosperity within host communities, and encourage community involvement in the protection of petroleum facilities. Through this mechanism, the Act seeks to ensure that the use of local natural resources directly benefits the populations impacted by petroleum operations. Additionally, before starting petroleum operations, the Act mandates that petroleum companies create and implement Environmental Management Plans (EMPs).¹⁹ These plans identify the possible environmental effects of proposed activities and outline strategies for preventing, mitigating, monitoring, and managing environmental risks throughout the life cycle of petroleum projects.

Another significant environmental safeguard introduced by the Act is the provision relating to the decommissioning and abandonment of petroleum facilities. The Act mandates petroleum operators to remediate affected locations in compliance with authorised decommissioning plans and decommission petroleum installations at the end of their operational lives.²⁰ To ensure their fulfillment, operators are required to create and maintain special

¹⁷ Ama Etweme SAN, 'Petroleum Industry Act (PIA) 2021: Impact, Challenges and Opportunities for Lawyers' (2025)

<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://blog.nigerianbar.org.ng/wp-content/uploads/2025/08/PIA_Article_with_Front_and_Back_Cover.pdf&ved=2ahUKewiyuarNpteVAX8WkEAHa2sPbMQFnoECBkQAQ&usg=AOvVaw2lPb9AlSgGIQZnxDwEjEM5> accessed 16 March 2026.

¹⁸ Petroleum Industry Act 2021, Sections 234–257.

¹⁹ OD Oghenevwede, 'The Host Communities' Development Trust under the PIA: A Trap or a Tool for Peace building?' (2025) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5578330> accessed 17 March 2026.

²⁰ Petroleum Industry Act (PIA) 2021, Section 318.

decommissioning and abandonment funds that may finance the safe removal of petroleum infrastructure and the remediation of affected environments.²¹

Furthermore, petroleum licensees and lessees are subject to other environmental obligations under the Petroleum Industry Act.²² These obligations include carrying out petroleum operations in compliance with relevant environmental laws and industry standards, taking steps to prevent pollution, putting in place efficient environmental management systems, reacting quickly to oil spills and other environmental incidents, keeping petroleum facilities safe, adhering to environmental regulations issued by the appropriate regulatory authorities, and remediating affected environments when pollution or environmental damage is caused by petroleum operations.

3.5 National Oil Spill Detection and Response Agency

The National Oil Spill Detection and Response Agency (NOSDRA) is Nigeria's principal agency responsible for monitoring, detecting and responding to oil spills, particularly those arising from petroleum operations. Established pursuant to the NOSDRA Act of 2006²³, the Agency plays a crucial role in enforcing environmental regulations and coordinating responses to oil pollution and environmental degradation. NOSDRA is responsible for monitoring oil spills, facilitating effective response and ensuring that affected areas are properly assessed and remediated. Its functions are particularly significant in Nigeria given the environmental impact of petroleum exploration and production, especially in the Niger Delta region.²⁴ The Agency also promotes the use of technology in oil spill detection, monitoring and response, including satellite surveillance, Geographic Information Systems

²¹ N Akachi & M Chukwu, 'Legal Framework for the Regulation of Abandonment and Decommissioning in Nigeria University' *Journal of Communication and Media Studies* (2024) <https://www.researchgate.net/publication/382967714_Legal_Framework_for_the_Regulation_of_Abandonment_and_Decommissioning_in_Nigeria_Ikechukwu_Chime_Akachi_Lynda_Nwogu-Ikojo/citation/download> accessed 17 March 2026.

²² Petroleum Industry Act 2021, Section 102.

²³ National Oil Spill Detection and Response Agency (Establishment) Act 2006.

²⁴ Amran Al-Kamzari, 'The problem of small-scale marine oil spills discharged by unattributable vessels: A review' (2025) <https://www.ea.gov.om/media/fivawfud/the-problem-of-small-scale-marine-oil-spills-discharged-by-unattributable-vessels.pdf> accessed 23 March 2026

(GIS) and other technological tools.²⁵ Despite the importance of NOSDRA in environmental protection, effective enforcement is hampered by challenges such as inadequate resources, limited technical capacity and weaknesses in monitoring and regulatory enforcement. These challenges undermine the timely detection, containment and remediation of oil spills and consequently limit the effective protection of environmental rights.

4.0 The International Framework for The Protection of Environmental Rights

4.1 Stockholm Declaration on the Human Environment 1972

The Stockholm Declaration arose from an initiative by the Government of Sweden, leading to the convening of the first inaugural international meeting addressing environmental issues through its General Assembly Resolution 2398 of 1969. The Conference on the Human Environment took place in Stockholm in 1972²⁶, marking a significant global recognition of environmental challenges. The Declaration, comprising 26 principles²⁷ provided a foundational framework for international environmental protection, aimed at uniting nations together in addressing those pressing environmental concerns raised.

Principle 1 of Stockholm Declaration asserts that man bears a solemn responsibility to safeguard and enhance the environment for both present and future generations, alongside the inherent right to liberty, fairness, and suitable living conditions within an environment that allows for a life of respect and prosperity.²⁸ Within international legal contexts, Principle 21 of the Stockholm Declaration has been recognized as the customary description of the relationship between State sovereignty and international responsibilities. This principle elucidates that although states have the sovereign rights to exploit and utilize their own resources, they also bear a responsibility to ensure that the activities, within their control or

²⁵ Matilda A, Femi A, 'Role of the National Oil Spill Detection and Response Agency (NOSDRA) in Resolving Oil Spill Disputes in Nigeria Introduction and Problem Statement' (2025) https://www.researchgate.net/publication/396310577_Role_of_the_National_Oil_Spill_Detection_and_Response_Agency_NOSDRA_in_Resolving_Oil_Spill_Disputes_in_Nigeria_Introduction_and_Problem_Statement accessed 23 March 2026.

²⁶ United Nations Institute for Training and Research, 'Introduction To Human Right And The Environment' <<https://globalpact.informea.org/sites/default/files/documents/HUMAN%20RIGHTS%20AND%20THE%20ENVIRONMENT%20pdf%20lessons.pdf>> accessed 14 January 2024

²⁷ This is known as the Magna Carta of The Human Environment. SC Valson, '*The Provisions of the Stockholm Declaration on the Human Environment*.' (DR Sehgal in International Law 2020) <<https://blog.ipleaders.in/everything-need-know-stockholm-declaration/>> accessed 4 May 2024

²⁸ Uwem Udok, Erimma Gloria Orie and Imaobong Ukpang 'Challenges of Access to Environmental Justice in Nigeria' *Cavendish University Law Journal* (2023) (3) 1-21 <<https://www.cavendish.ac.ug/wp-content/uploads/2023/05/Challenges-of-Access-to-Environmental-Justice-in-Nigeria.pdf>> accessed on 17 March 2026.

jurisdiction, do not cause harm to the environment in other states or beyond the limits of their jurisdiction. The Stockholm Declaration also contributed to the development of procedural environmental rights, particularly access to environmental information, public participation in environmental decision-making and access to legal recourse and remedies in cases of environmental damage.

4.2 Rio Declaration on Environment and Development 1992

The Rio Declaration on Environment and Development, emerged from the 1992 United Nations Conference on Environment and Development also called the Earth Summit. it establishes fundamental principles governing the interactions among states and between states and their citizens regarding environmental and developmental matters.²⁹ Leading up to the 1992 United Nations Conference on the Environment and Development, the General Assembly Resolution 45/94 seemed to offer support by endorsing an independent right to a healthy environment when it acknowledged that every individual has the right to reside in an environment suitable for their health and well-being.³⁰ Principle 1 of the Rio Declaration states: "Human beings are the focal point of sustainable development. They have the right to a healthy and productive life in harmony with nature."

More importantly Principle 10 of the Rio Declaration recognizes the importance of public access to environmental information, participation in environmental decision-making, and access to justice. These procedural rights are particularly significant to the enforcement of environmental rights, as they enable individuals and communities to participate in decisions affecting their environment and seek appropriate remedies where environmental harm occurs

4.3 Convention on Biological Diversity 1992

The Convention on Biological Diversity (CBD) was adopted in 1992 at the United Nations Conference on Environment and Development (the Rio Earth Summit) and entered into force on 29 December 1993. Nigeria became a Party to the Convention on 27 November 1994.³¹ The Convention is primarily concerned with the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising from the utilisation of genetic resources. These objectives are particularly relevant to

²⁹ A Tokuc, 'Rio Declaration on Environment and Development' *Encyclopedia of Corporate Social Responsibility* (2013) [8] 22

³⁰Ibid.

³¹ Damilola Olawuyi, *The Principles of Nigerian Environmental Law* (Rev edn, Afe Babalola University Press, 2015) 291-295

environmental protection because the conservation of biodiversity is closely connected with the protection of ecosystems and the conditions necessary for human well-being.

The Convention places responsibility on States to develop and implement national strategies, plans and programmes for the conservation and sustainable use of biological diversity.³² It further requires States to integrate the conservation and sustainable use of biological diversity into relevant sectoral and cross-sectoral plans, programmes and policies. These obligations are significant to Nigeria, where environmental degradation arising from activities such as petroleum exploration, deforestation and other forms of resource exploitation poses serious threats to ecosystems and local communities. Article 14³³ is of particular relevance to the enforcement of environmental rights as it requires parties to establish appropriate procedures for environmental impact assessment for proposed projects likely to have significant adverse effects on biological diversity. It also encourages public participation in such procedures. This provision strengthens the preventive dimension of environmental protection by requiring environmental consequences to be considered before potentially harmful activities are undertaken. It therefore complements domestic environmental laws that require environmental assessment and public participation in environmental decision-making.

The Convention also promotes sustainable use of biological resources under Article 10 and requires parties to promote public education and awareness concerning the conservation of biological diversity under Article 13³⁴. Despite these obligations, the effectiveness of the Convention depends substantially on its implementation at the national level. The existence of international environmental commitments does not by itself, guarantee effective enforcement within Nigeria. This highlights the continuing importance of strengthening domestic legislation, regulatory institutions, environmental impact assessment procedures and mechanisms through which individuals and affected communities can participate in and challenge environmentally harmful activities.

4.4 United Nations Framework Convention on Climate Change (UNFCCC)

The United Nations Framework Convention on Climate Change (UNFCCC) entered into force on 21 March 1994 and is an international treaty adopted under the United Nations

³² Ibid

³³ Convention on Biological Diversity, 5 June 1992, 1760 UNTS 79, art 14

³⁴ Ibid, art 13

Conference on Environment and Development.³⁵ The ultimate objective of the Convention is to stabilise greenhouse gas concentrations at a level that would prevent dangerous anthropogenic interference with the climate system. It further seeks to ensure that ecosystems are able to adapt naturally to climate change, food production is not threatened, and economic development proceeds in a sustainable manner.³⁶

The Convention is particularly relevant to environmental protection in Nigeria, given the country's environmental challenges and vulnerability to the effects of climate change. It also recognizes the principle of common but differentiated responsibilities, requiring States to take into account their respective national and regional development priorities, objectives and circumstances.³⁷ Furthermore, the Convention provides a framework for financial and other forms of support to developing countries in addressing climate change.

Despite its importance, the effectiveness of the UNFCCC is affected by limitations in its implementation and enforcement mechanisms. Climate finance remains difficult for developing countries to access, while institutional and technological limitations may hinder the effective implementation of climate obligations. These challenges demonstrate that the existence of international environmental commitments does not necessarily guarantee their effective enforcement at the domestic level.

4.5 The Paris Agreement 2015

The Paris Agreement, adopted in 2015, is a legally binding international treaty aimed principally at strengthening the global response to climate change by limiting the increase in global temperature and reducing greenhouse gas emissions.³⁸ It places emphasis on adaptation, climate finance, technology cooperation and capacity building. A significant feature of the Agreement is the requirement for countries to communicate their nationally determined contributions (NDCs), setting out their efforts towards addressing climate change.

The Paris Agreement is relevant to the enforcement of environmental rights because its objectives are closely connected with the protection of the environment and the conditions

³⁵ David Ciptet, J Timmons Roberts and Mizan Khan, *Power in a Warming World: The New Global Politics of Climate Change and the Remaking of Environmental Inequality* (MIT Press 2015).

³⁶ Chukwumerije Okereke and Peter Coventry, 'Climate Justice and the International Regime: Before, During, and After Paris' (2016) 7(6) *Wiley Interdisciplinary Reviews: Climate Change* 834.

³⁷ Peter Newell and Harriet Bulkeley, 'Landscape for Change? International Climate Policy and Energy Transitions in the Global South' (2017) 35 *Energy Research & Social Science* 146.

³⁸ UNCC, 'The Paris Agreement: What is the Paris Agreement?' <https://unfccc.int/process-and-meetings/the-paris-agreement> accessed 9 May 2025

necessary for the enjoyment of human rights.³⁹ However, despite being a significant development in global climate governance, the Agreement faces challenges in ensuring effective implementation and enforcement, particularly in developing countries where limited access to climate finance, technology and institutional capacity may affect compliance.

5.0 Challenges in the Enforcement of Environmental Rights in Nigeria

Enforcement of environmental rights is essential for citizens to have recourse to legal and administrative mechanisms to obtain effective remedies, address violations effectively and ensure a healthy environment. However, experience has shown that there are various obstacles hindering public access to enforcing these rights and achieving environmental justice in Nigeria.

5.1 Constitutional Challenges in the Enforcement of Environmental Rights in Nigeria

It is evident that the Constitution has faced significant challenges in the enforcement of environmental rights. This is partly attributable to the placement of the right to a clean and healthy environment as a non-justiciable right in Chapter II of the 1999 Constitution despite its growing global significance at both the international and regional levels⁴⁰. However,

the non-justiciability of Section 20 does not entirely preclude the enforcement of environmental rights as statutory developments and judicial decisions have provided alternative legal avenues for their protection ⁴¹.

By virtue of section 6 (6) (c) of the constitution⁴², it is provided that:

The judicial powers vested in accordance with the foregoing provisions of the Section shall not, except as otherwise provided by this constitution, extend to any issue or question 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 this constitution.

The aforementioned provision implies that the provisions contained in Chapter II are generally not enforceable in a court of law. Nevertheless, developments in Nigerian

³⁹ Charlotte Streck, 'The Paris Agreement: A New Beginning' (2016) 9 Journal for European Environment and Planning Law

⁴⁰ BA Oloworaran, 'The Right to a Clean and Healthy Environment and the Fundamental Rights Provisions of the Constitution of the Federal Republic of Nigeria 1999' *Petroleum, Natural Resources and Environmental Law Journal* (2009) 1(2) 53.

⁴¹ Ibid.

⁴² The Constitution of the Federal Republic of Nigeria, 1999 (as amended)

environmental jurisprudence have demonstrated that environmental rights may in appropriate circumstances be enforced through other legal mechanisms. Particularly, the courts have relied on the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act and the fundamental rights guaranteed under Chapter IV of the Constitution to provide protection for environmental rights. This judicial approach is illustrated in the case of *Gbemre v Shell Petroleum Development Company Nigeria Ltd*, where the Federal High Court held that environmental degradation resulting from gas flaring violated the constitutional rights to life and dignity of the human person. The decision demonstrates that although Section 20 is not directly enforceable, environmental rights may be protected where environmental harm threatens the enjoyment of fundamental human rights. Accordingly, the principal challenge is not the absolute absence of legal protection but the continued reliance on indirect statutory and judicial mechanisms which may create uncertainties and practical difficulties in the enforcement of environmental rights.

Further on the inadequacies of the legal framework in enforcing environmental rights, it is well-established that Nigerian environmental laws and regulations are replete with numerous provisions that criminalize the breaches of environmental standards, regulations, and guidelines. Offenses under these provisions attract punishment in form of imprisonment, fines, or both.⁴³ Various legislations, including the Criminal Code⁴⁴, the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act⁴⁵ amongst others, prescribe criminal sanctions for environmental degradation and infractions. However, the effectiveness of these sanctions has often been questioned, as they have not sufficiently served as sufficient deterrent against environmental violations. This is evident in the frequent impunity with which oil and gas companies in Nigeria violate environmental laws, thereby undermining the effective protection of environmental rights in Nigeria.⁴⁶

5.2 Challenges Associated with the Petroleum Industry Act 2021 in the Enforcement of Environmental Rights

The Petroleum Industry Act (PIA) 2021 encounters numerous challenges in the enforcement of environmental rights, despite the introduction of significant environmental safeguards. The 3% Host Community Development Trust contribution is commonly seen as insufficient

⁴³ Uwem Udok and Others (n 24).

⁴⁴ Criminal Code 2004.

⁴⁵ NESREA Act 2007.

⁴⁶ BA Oloworaran (n 23).

to compensate the considerable environmental harm and socioeconomic losses incurred by host communities. The Act also does not expressly recognize environmental rights as enforceable human rights. Consequently, affected communities often rely on the African Charter, and judicial decisions in seeking remedies for environmental harm. The implementation of the Act is further undermined by poor monitoring, insufficient money, limited technical capacity, inconsistent enforcement of environmental remediation duties, and weak regulatory institutions. Furthermore, access to justice remains a barrier due to protracted litigation, costly legal fees, and evidence issues.

5.3 Poor Judicial Attitude towards Enforcement of Environmental Rights

In addition to the constitutional and institutional challenges affecting the enforcement of environmental rights, the courts' approach to environmental litigation has also contributed to the challenges associated with the public access to environmental justice in Nigeria. While the right to a clean and healthy environment is not explicitly established as a fundamental right in the constitution, but rather as a fundamental objective and directive principle of State policy, Nigerian courts have in certain instances demonstrated willingness to protect environmental rights by interpreting them alongside other enforceable fundamental human rights guaranteed under the 1999 Constitution.⁴⁷ This judicial approach has however not been consistently applied thereby creating uncertainty in the enforcement of environmental rights. Although several rights within Chapter IV of the constitution, such as the right to life⁴⁸, dignity of the human person⁴⁹, personal liberty⁵⁰, family and private life⁵¹, and property rights⁵², could potentially be utilized to enforce the right to a clean and healthy environment in Nigeria, attempts to persuade the courts to interpret environmental rights within the scope of these civil and political right has not yielded favourable outcomes thus far. One of the most significant judicial decisions where the court asserted that the right to a healthy environment is enforceable as an inherent aspect of the right to life and dignity of the human person, is the case of *Gbemre v SPDC*⁵³. However, since the delivery of this landmark decision in 2005, there has been little progress in advancing environmental rights. Consequently, the development of environmental rights jurisprudence in Nigeria has

⁴⁷ Ibid.

⁴⁸ CFRN (1999) as amended, Section 33(1).

⁴⁹ Ibid, Section 34.

⁵⁰ Ibid, Section 35.

⁵¹ Ibid, Section 37.

⁵² Ibid, Section 43.

⁵³ (Unreported) Suit No. PHC/CS/B/153/2005 (Unreported judgment of the Federal High Court Benin Division delivered on 14 November 2005); (2005) AHRLR 151 (NGHC 2005).

remained relatively slow when compared with developments in some other jurisdictions. For instance, in the case of *Allan Irou v. Shell B.P*⁵⁴, despite compelling evidence, the judge refused to grant restraining orders injunctions against polluting activities. Such decisions illustrate that notwithstanding important judicial developments, inconsistent judicial responses continue to pose challenges to the effective enforcement of environmental rights in Nigeria.

5.4 Poor Attitude to Environmental Rights Advocacy

The enforcement of environmental rights in Nigeria is also hindered by challenges surrounding environmental advocacy, notably the lack of sufficient environmental rights advocacy efforts. Public awareness and access to information play a vital role in the protection and enforcement of environmental rights⁵⁵. The local communities and individuals affected by environmental injustices are more likely to assert their rights when they are well-informed and enlightened about the activities affecting their surroundings and the resulting adverse impacts on their health, livelihoods, and ecosystems. Despite the existence of numerous environmental rights non-governmental organizations (NGOs) in Nigeria, many of them lack clear and visible organizational structures, a stable financial base, and credible leadership. Consequently, this renders them ineffective in providing the necessary enlightenment and advocacy to local communities.⁵⁶

5.5 Poor Attitude of the Citizenry

While the government shoulders a significant portion of responsibility for the enforcement of environmental rights in Nigeria, it is essential to acknowledge that the citizenry also bears its share of accountability. Various factors contribute to this situation, including low levels of literacy and awareness among most citizens regarding their environmental rights, as well as the exorbitant costs associated with environmental litigation, among other factors. It is evident that the level of literacy in Nigeria is not particularly high and most citizens are unaware of their environmental rights as a result. Consequently, they are often unable to assert their rights or engage the authorities to enforce their rights when faced with environmental issues.

⁵⁴ Unreported Suit No. W/89/71 (Warri High Court), November 26, 1973.

⁵⁶ Uwem Udok and Others (n 24).

5.6 Weak Enforcement Mechanism

Another major obstacle to achieving environmental justice through the enforcement of environmental rights in Nigeria is the absence of an effective enforcement system. This deficiency is evident in two main aspects: the ineffective performance of monitoring and regulatory bodies and the prevalence of corruption and politicization of environmental matters. The relevant enforcement authorities in Nigeria tasked with establishing environmental standards and enforcement include the NESREA, NOSDRA, and other sector-specific regulatory bodies. These agencies are saddled with the responsibility of enforcing various laws such as the FOI Act⁵⁷, NESREA Act⁵⁸, Harmful Waste Act⁵⁹, etc. However, these agencies often lack adequate financial resources, trained personnel, logistics, and modern technology to operate effectively. The other aspect is with regard to the corruption within regulatory authorities and the politicization of environmental issues. It is widely acknowledged that corruption has deeply permeated the fabric of the Nigerian society, and its detrimental effects are particularly evident in the enforcement of environmental standards, particularly within the oil and gas sector⁶⁰.

6.0 Practical Approaches to Enforcing Environmental Rights in Nigeria

This section aims to identify effective approaches to ensure the protection and realization of environmental rights within the Nigerian legal and social framework.

6.1 Enforcement of Environmental Rights through Litigation

Litigation has served as an important mechanism in safeguarding environmental rights in various countries including Nigeria. This is because often, the state has failed to enforce environmental laws, leaving affected individuals and communities with no choice but to turn to the judiciary as a last resort. Through environmental litigation, communities and individuals are able to compel the state to enforce statutory provisions and hold multinational companies accountable for environmental pollution and degradation.

⁵⁷ Freedom of Information Act, 2011 Act No. 4 of 2011 Laws of the Federation of Nigeria 2004.

⁵⁸ National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, 2007 Act No. 25 of 2007 Laws of the Federation of Nigeria 2004.

⁵⁹ Harmful Waste (Special Criminal Provisions) Act 1988 Act No.42 of 1988 Laws of the Federation of Nigeria.

⁶⁰ HT Ijaiya and OT Joseph, 'Rethinking Environmental Law Enforcement in Nigeria' *Beijing Law Review* (2014) <<https://www.scirp.org/journal/paperinformation?paperid=52770>> accessed 17 July 2026.

6.2 Legislative Responsiveness to Environmental Issues

The legislators being the lawmaking body in Nigeria, should continue to recognize the intrinsic connection between environmental protection and human rights⁶¹. They should treat these two aspects as complementary to each other and consequently, consideration should be given to strengthening constitutional protection. An example of a significant stride in this direction is the enactment of the Petroleum Industry Act 2021. The Act established the Host Communities Development Trusts aimed at providing adequate funds for protecting the environment of communities in the Niger-Delta region among others.⁶² This initiative signifies a giant step towards aligning with international best practices in recognizing human rights and environmental protection. However effective implementation requires improved institutional capacity, accessible justice and meaningful community participation to ensure sustainable environmental protection. Furthermore, the provision on the 3% Host Community Development Trust contribution should be reviewed to reflect the true environmental impacts of petroleum operations.

6.3 Establishment of Specialized Environmental Divisions within the Federal High Court

Furthermore, to ensure the expeditious, just, and accessible dispensation of environmental justice, it is recommended that specialized environmental divisions be established within the federal high court. These specialized divisions would be saddled with the responsibility of exercising jurisdiction over environmental disputes and matters relating to the enforcement of environmental rights. They would facilitate the efficient determination of environmental cases while taking advantage of the existing judicial structure, so as to avoid the financial and administrative burden associated with establishing an entirely new court. The establishment of specialized environmental divisions would help address various challenges in environmental litigation, such as limited resources of litigants, delays in the judicial process and the technical nature of environmental disputes. Additionally, this specialized divisions should comprise experts in environmental science and related fields who possess profound knowledge of the field⁶³. Nigeria could adopt a model similar to that of India, where

⁶¹ Junaidu & Fauziyah, 'International Frameworks for Human Rights and Environmental Protection: Challenges and Prospects of Enforcement in Nigeria' *International Journal of Innovative Legal & Political Studies* (2022) 10(1) 60-75 <<https://seahipaj.org/journals-ci/mar-2022/IJILPS/full/IJILPS-M-7-2022.pdf>> accessed 22 March 2026.

⁶² Petroleum Industry Act 2021, Sections 234 to 257.

⁶³ C E Ibe & E Okon, 'Mechanisms for Access to Environmental Justice in Nigeria: Challenges and Prospects' <<https://journals.ezenwaohaetorc.org/index.php/AJLHR/article/download/1677/1714> > accessed 28 March 2026.

specialized environmental adjudicatory mechanisms have contributed significantly to the effective resolution of environmental disputes and the advancement of environmental justice.

6.4 Liberalisation of the Locus Standi rule in Nigeria

Access to justice is an essential component of the effective enforcement of environmental rights. Although Nigerian courts have in recent years adopted a more liberal approach to the issue of locus standi in public interest and environmental litigation, further efforts are required to ensure that procedural rules do not unnecessarily impede access to environmental justice. This progressive approach is reflected in the case of *COPW v NNPC*⁶⁴, where the court adopted a more liberal approach towards locus standi in environmental matters, particularly where environmental degradation affects public health or the enjoyment of fundamental human rights. Nevertheless, there is a need for this liberal approach to be consistently applied in environmental cases to ensure broader access to justice. Accordingly, the courts should continue to adopt and consistently apply a liberal approach to locus standi in environmental matters.⁶⁵

6.5 Greater Reliance on the African Charter in the Enforcement of Environmental Rights

The African Charter on Human and People's Rights Act continues to provide one of the strongest legal foundations for the enforcement of environmental rights in Nigeria. The importance of the African Charter as an enforcement mechanism was demonstrated in the case of *Social and Economic Rights Action Center and the Center for Economic, and Social Rights v. Federal Republic of Nigeria*⁶⁶. The complainant in that case, accused the Military Government of direct involvement in irresponsible oil development practices in the Ogoni region, including widespread soil, water, and air contamination, burning of crops, killing of farm animals, and instilling a climate of terror in Ogoni communities, all of which violated their rights to health, a healthy environment, housing, and food. Under the African charter, these allegations encompassed violations of various articles, including non-discriminatory enjoyment of rights (Articles 2), rights to life (Articles 4), right to property (Articles 14), right to health (Article 16), family rights (Articles 18), right of people to freely dispose of their wealth and natural resources (Articles 21), and right of the people to a satisfactory environment (Article 24). The commission found both the Nigerian Government and

⁶⁴ Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation (2019) 5 NWLR (Pt. 1666)518

⁶⁵ Ibid.

⁶⁶ [2001] AHRLR 60 (ACPHR 2001).

multinational oil companies culpable for violating the Ogoni people's rights to clean water, food, good health, and adequate living standards. This case vividly demonstrates that the provisions of the charter can be utilized in safeguarding the right to a healthy environment notwithstanding the constitutional limitations associated with Section 20 of the 1999 Constitution. Accordingly, legal practitioners, civil society organizations and the courts should continue to invoke and apply the provisions of the charter in appropriate cases to strengthen the enforcement of environmental rights in Nigeria.

6.6 Amending the Constitution

The African Charter on Human and People's Rights Act and judicial decisions have provided important avenues for the enforcement of environmental rights in Nigeria. Notwithstanding, the constitutional recognition of the right to a clean and healthy environment as an enforceable and justiciable right would significantly strengthen its protection. Therefore, consideration should be given to amending the 1999 Constitution to expressly guarantee the right to a clean and healthy environment under Chapter IV. Such amendment would eliminate the uncertainty surrounding the constitutional status of environmental rights and provide a clear legal basis for their direct enforcement.⁶⁷ Furthermore, constitutional recognition would also enhance the security of environmental rights and reduce susceptibility to manipulation by political elites seeking to exploit the environment for short-term economic gain.

6.7 Expansion of the Extant Civil and Political Rights in the Constitution

Although environmental rights have received judicial recognition through the African Charter and judicial decisions, Nigerian Courts should continue to adopt a broad and purposive interpretation of the existing fundamental rights guaranteed under Chapter IV of the 1999 Constitution to strengthen the protection of environmental rights. More importantly, the right to life and the dignity of the human person provides an important constitutional foundation for safeguarding the right to a clean, safe and healthy environment. This progressive judicial approach is illustrated in the case of *Gbemre v Shell Petroleum Development Company Nigeria Ltd*⁶⁸, where the court held that the prevailing gas flaring practices violated the plaintiff's right to life and dignity as guaranteed by the Nigerian Constitution and the African

⁶⁷ Damilola Olawuyi, *The Principles of Nigerian Environmental Law* (Afe Babalola University Press, 2015) 228

⁶⁸ *Gbemre v Shell Petroleum Development Company of Nig.Ltd*, Suit No: FHC/B/CS/53/05

Charter. This approach known as judicial activism, aligns with our judicial jurisprudence and could contribute to greater environmental protection and justice in Nigeria.⁶⁹

7.0 Conclusion

The enforcement of environmental rights in Nigeria has witnessed significant legal and judicial developments, particularly through the African Charter and judicial interpretation of existing constitutional rights. Notwithstanding these developments, the effective protection of environmental rights continues to face considerable constitutional, institutional and practical challenges including inconsistent judicial approaches, weak regulatory enforcement, limited public awareness, inadequate institutional capacity and procedural barriers to environmental litigation. These challenges continue to undermine efforts made to protect the environment, public health, and sustainable development. Addressing these challenges requires a combination of legal and institutional reforms. Strengthening enforcement through litigation, establishing specialised environmental divisions within the Federal High court, enhancing legislative responsiveness, adopting a liberal approach to locus standi, promoting greater reliance on the African Charter and ensuring that constitutional provisions are directly justiciable are critical steps towards effective protection of environmental rights. By implementing these measures, Nigeria can create a more robust and accessible legal framework, ensuring that environmental rights are not only recognized but also actively enforced for present and future generations.

8.0 Recommendations

1. The government should establish specialised environmental divisions within the Federal High courts, mandated to handle environmental cases exclusively. These divisions should be equipped with the necessary expertise and resources to adjudicate complex environmental issues efficiently. To support this, specialised training for judges, lawyers, and other legal practitioners in environmental law should be provided, ensuring they are well-equipped to handle environmental cases.
2. The judiciary should prioritise environmental right cases and provide accessible mechanisms for individuals and communities to seek legal redress for environmental harm. Judges should also be encouraged to adopt a rights-based approach to environmental protection.

⁶⁹ OK Anaabo and OE Eghosa, 'Realizing Substantive Rights To Healthy Environment in Nigeria: A Case For Constitutionalization' < <https://www.academia.edu/97823023/>> accessed 27 March 2026.

3. The Constitutional protection of environmental rights should be strengthened by expressly recognizing the right to a clean and healthy environment as an enforceable fundamental right under Chapter IV of the 1999 Constitution. This recognition will provide greater constitutional certainty and a clearer legal basis for individuals to seek redress for environmental damage.
4. The judiciary should continue to adopt and consistently apply a liberal approach to the rule of locus standi in environmental litigation, thereby enabling individuals, non-governmental organisations and community groups to institute environmental actions in appropriate cases. At the same time, appropriate safeguards should be maintained to prevent frivolous, vexatious or abusive litigation.