

IS NIGERIA READY TO COMBAT ENVIRONMENTAL PROBLEMS? A PEEP THROUGH JUDICIAL DECISIONS OF NIGERIAN COURTS

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Abstract: Nigeria, similar to numerous other nations across the globe, grapples with a multitude of environmental difficulties. The imperative of safeguarding the environment is considered inviolable, and any responsible nation must accord it utmost importance. The recognition and correlation between the right to address environmental issues and the rights to life and human dignity, as stated in the 1999 Constitution of Nigeria, have been established by authoritative entities inside the country. In Nigeria, there exist a limited number of established authorities responsible for environmental preservation. The main objective of this study is to assess the progress made by Nigeria in the realm of environmental preservation, while also evaluating the extent to which the Nigerian government and other pertinent actors in the environmental sector adhere to court directives pertaining to environmental protection. When a court of appropriate jurisdiction issues a judgement in a specific case, it is expected that the judgement will be promptly adhered to in order to uphold the principles of the legal system. Failure to comply with court judgements poses a significant issue that requires rapid attention. This study investigates the aforementioned element in the context of evaluations pertaining to environmental conservation. In order for Nigeria to align with international standards pertaining to environmental conservation, it is imperative to adhere to the principles of the rule of law and ensure compliance with court rulings.

Keywords: environmental protection; Rule of Law; judgments of courts; environmental challenges; Nigeria

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INTRODUCTION

The principle of the rule of law is of considerable significance within the context of a democratic democracy. In the absence of a proper legal framework, the prevailing circumstances will be marked by a lack of order and societal instability. The adherence to court judgements is a crucial factor in the establishment and preservation of the rule of law. The interconnection between court orders and decisions is crucial to the maintenance of the rule of law, as the latter cannot be upheld when the former are not adhered to. The primary aim of this research is to examine the evaluations pertaining to the preservation of the environment. The non-compliance of the government and relevant stakeholders, specifically in the Niger Delta region of Nigeria, as well as

other commercial areas like Lagos, Onitsha, Calabar, and Port Harcourt, with numerous laws pertaining to pollution arising from oil mining activities, has been subject to observation. In order for Nigeria to conform to international norms in the realm of environmental preservation, it is crucial to abide by judicial decisions pertaining to the safeguarding of the environment.

The preservation of the environment is of the utmost importance in any logical society, as it guarantees the maintenance of ecological balance for both human residents and other organisms, while simultaneously fostering sustainable development. Franjić¹ asserts that the maintenance of a healthy environment is an essential prerequisite for the promotion of healthy lifestyles and the overall development of nations on a global scale. The ongoing global preoccupation with environmental concerns and the endeavour to achieve sustainable development remains a formidable task confronted by nations across the globe. The field of environmental protection encompasses a wide range of concerns pertaining to the effects of human actions on the natural environment. The primary aim of environmental conservation is to mitigate the deterioration of the natural environment resulting from factors such as population growth, technological progress, and unsustainable consumption patterns. These variables have a detrimental impact on the ecosystem, presenting persistent risks to the well-being of both humans and animals. The preservation of the environment is a crucial factor in achieving sustainable development. The preservation of the environment plays a vital role in fostering social sustainability and safeguarding the well-being and continuity of individuals and human societies, as human beings are heavily dependent on the natural environment.²

The 1992 Rio Declaration reaffirms the dedication of the international community to promote and execute the preservation and sustainable advancement of the global ecological and economic system. In addition, it is worth noting that the report produced by the Brundtland Commission in 1986, as referenced by Brundtland,³ emphasises the utmost significance of environmental conservation within the context of sustainable development, as highlighted by Dogaru.⁴ The responsibility falls upon the human population to engage in the restoration of regions that have experienced negative impacts, as well as to actively address and alleviate the ongoing degradation of the environment through the implementation of sustainable development practises. It is disconcerting to see that, according to data provided by the Food and Agricultural Organisation,⁵

¹ FRANJIĆ, S. Importance of Environment Protection on the Global Level. *Scientific Journal of Research & Reviews* [online]. 2018, Vol. 1, No. 2 [cit. 2023-07-30]. Available at: <https://doi.org/10.33552/sjrr.2018.01.000506>.

² HARIVÉLO, R. Z. M. – HARIFIDY, R. Z. A Review of Environmental Protection and Sustainable Development in Madagascar. *J* [online]. 2022, Vol. 5, No. 4, pp. 512–531 [cit. 2023-07-30]. Available at: <https://doi.org/10.3390/j5040035>.

³ Brundtland Report. 1987. In: *Federal Office for Spatial Development ARE* [online]. [cit. 2023-07-30]. Available at: <https://www.aren.admin.ch/aren/en/home/media>.

⁴ DOGARU, L. The Importance of Environmental Protection and Sustainable Development. *Procedia – Social and Behavioral Sciences* [online]. 2013, Vol. 93, pp. 1344–1348 [cit. 2023-07-30]. Available at: <https://doi.org/10.1016/j.sbspro.2013.10.041>.

⁵ TOTIĆ, M. *Ten justified reasons for effective environmental protection in the near future*. Irasa International Scientific Conference – Science, Education, Technology and Innovation: Seti I: Book of Proceedings. Belgrade, 2019.

approximately 1.3 thousand animal species, out of the existing total of 6 thousand, are categorised as endangered or facing the threat of extinction. The presence of pollution within a given society presents considerable obstacles in the pursuit of achieving sustainable development.⁶ This research investigates the degree of judicial intervention in environmental protection issues within the legal framework of Nigeria, with a specific emphasis on assessing various judicial rulings made by different courts. Furthermore, this research investigates the degree to which the Nigerian government and other prominent parties comply with the aforementioned judgements.

RESEARCH METHODOLOGY

The present study utilises the doctrinal technique of research. The primary focus of this study pertains to the many rulings rendered by Nigerian courts in relation to the safeguarding of the environment. In addition, several sources such as books, scholarly articles, legal reports, and periodicals were utilised. The significance of utilising the internet in compiling this work cannot be overstated.

THE JUDICIAL SYSTEM IN NIGERIA

The judiciary in Nigeria constitutes the third tier of government, tasked with the crucial role of interpreting and applying the law. The allocation of judicial authorities in Nigeria is explicitly outlined in the 1999 Constitution of Nigeria, which designates the courts as the authoritative entities responsible for exercising these functions. Some authors have seen the establishment of courts with appropriate jurisdiction in Nigeria as a means to address environmental concerns⁷. Environmental litigation in Nigeria encompasses both criminal and civil action. Individuals who are determined to have violated a range of environmental regulations by courts with appropriate authority are subjected to legal consequences that span from monetary penalties to incarceration, contingent upon the severity of the offence committed.⁸ High Courts, both at the state and federal level, have been adjudicating disputes pertaining to environmental preservation within the Nigerian context. According to the regulations outlined in the 1999 Constitution of Nigeria,⁹ any party involved in a legal dispute who is unsatisfied with the ruling made by the High Court has the right to appeal said ruling to both the Court of Appeal and further to the Supreme Court.

It is important to note that the National Environmental Standards and Regulations Enforcement Agency (NESREA) is the governing agency responsible for environmental

⁶ KEHINDE, A. The effect of global warming in Nigeria: flood in perspective. *Studia Prawno-Ekonomiczne* [online]. 2023, Vol. 124 [cit. 2023-07-30]. Available at: <https://doi.org/10.26485/spe/2022/124/3>.

⁷ FAGBEMI, A. – AKPANKE, A. Environmental litigation in Nigeria: the role of the Judiciary. *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*. 2019, Vol. 10, No. 2, pp. 26–34.

⁸ Ibid.

⁹ Section 6 of the 1999 Constitution of the Federal Republic of Nigeria, Cap C23 LFN 2004.

protection in Nigeria.¹⁰ The body in question possesses perpetual succession and is endowed with a common seal, thereby possessing the authority to initiate legal proceedings as well as be subject to legal action. The body possesses the authority, as granted by its enabling legislation, to initiate legal proceedings in order to hold those who have contravened any aspect of environmental protection legislation accountable.¹¹ The Act has granted NESREA the authority to collaborate with pertinent entities in order to establish mobile courts that will efficiently address cases of environmental law regulation violations.¹² As previously stated, the scope of environmental protection extends beyond criminal litigation in Nigeria and worldwide. In addition, individuals who have suffered harm as a result of others' actions can seek redress under civil law, specifically the law of torts, in order to obtain compensation for the damages inflicted upon them.¹³

SOME CONVENTIONS ON ENVIRONMENTAL PROTECTION

Several conventions have been established to address the issue of environmental protection. These conventions serve as international agreements aimed at promoting sustainable practises and mitigating the negative impacts of human activities on the environment. They provide a framework for cooperation among nations and outline guidelines environmental sustainability.

It is relevant to discuss certain international agreements and policies pertaining to environmental preservation at the global level. One notable document to note is the Rio Declaration.¹⁴ The Rio Declaration is an international agreement that has been ratified by states worldwide with the aim of safeguarding the environment. The Rio Declaration on Environment and Development provides a framework for the interaction between nations and their populations in the context of environmental and developmental concerns. The approval of the aforementioned occurred at the Earth Summit, which is colloquially referred to as the United Nations Conference on Environment and Development, in 1992.¹⁵ It is imperative for states to enact robust environmental legislation. Environmental standards, management objectives, and priorities should be aligned with the specific environmental and developmental context in which they are applied.¹⁶

¹⁰ UMUKORO, B. – OMOZUE, M. Prosecuting Environmental Pollution Cases in Nigeria: the Head of a Carmel Passing Through the Eye of a Niddle. *Baltic Journal of Law & Politics*. 2022, Vol. 15, No. 2, pp. 2232–2243 [cit. 2023-07-30]. Available at: <https://doi.org/10.2478/bjlp-2022-001141>.

¹¹ Section 1(2) and 8(f) NESREA Act 2007.

¹² Section 8(f) NESREA Act 2007.

¹³ KEHINDE, A. *A Study of the Legal Issues in Environmental Protection as It Affects Telecommunication Installation in Nigeria* [Thesis]. 2017.

¹⁴ The Rio Declaration of 1992.

¹⁵ TOKUÇ, A. Rio Declaration on Environment and Development (UN). In: IDOWU, S. O. – CAPALDI, N. – ZU, L. – GUPTA, A. D. (eds.). *Encyclopedia of Corporate Social Responsibility* [online]. Berlin, Heidelberg: Springer, 2013, pp. 2087–2094 [cit. 2023-02-27]. Available at: https://doi.org/10.1007/978-3-642-28036-8_19.

¹⁶ Principle 11 Rio Declaration.

It is imperative for nations to promptly and decisively engage in collaborative efforts to establish further international legal frameworks pertaining to the responsibility and reparation for detrimental environmental consequences resulting from actions within their jurisdiction or influence over places beyond their jurisdictional boundaries. It is imperative for states to formulate comprehensive national legislation pertaining to the issues of accountability and compensation concerning individuals affected by pollution and other forms of environmental harm.¹⁷

The role of the judicial system in environmental protection is underscored by Agenda 21 of the Rio Declaration on the environment and development, which emphasises the need for national governments to establish judicial and administrative structures and procedures for legal remedies. Principle 10 of the Declaration emphasises the need of national governments in promoting sufficient access to judicial and administrative procedures, which encompass redress and remedy. Additionally, it encourages the active participation of all concerned citizens.¹⁸

STOCKHOLM CONFERENCE¹⁹

The Stockholm Conference, held in 1972, was a significant international event that focused on addressing pressing environmental issues and promoting sustainable development. The Stockholm Conference on the Human Environment in 1972 laid the foundation for international environmental policy. Principle 1 asserts that individuals possess inherent entitlements to freedom, fairness, and a sustainable quality of life within a dignified and gratifying milieu. The inaugural worldwide assembly was convened to deliberate on urgent environmental concerns. The primary emphasis of the event was on the imperative of establishing a shared perspective and set of principles to inspire and guide individuals around the globe in their efforts to safeguard and enhance the human environment.²⁰

VIENNA PROTOCOL

The Vienna Convention for the Protection of the Ozone Layer is a globally recognised international agreement pertaining to environmental preservation. The ratification of the document took place in 1988 subsequent to its adoption at the Vienna Conference in 1985. It serves as a fundamental basis for international endeavours aimed at protecting the ozone layer. Chlorofluorocarbons (CFCs), which are the main

¹⁷ Principle 13 Rio Declaration.

¹⁸ ALATISE, T. Jurisdictional Problem in Environmental Litigation in Nigeria: Lessons from New South Wales. *IJUM Law Journal* [online]. 2022, Vol. 30, No. 1, pp. 75–103 [cit. 2023-07-30]. Available at: <https://journals.iium.edu.my/iiumlj/index.php/iiumlj/article/view/553/345>.

¹⁹ It was held in Stockholm, Sweden, from June 5–16, 1972.

²⁰ KEHINDE, A. Environmental Protection: Need to Comply with Environmental Impact Assessment Act to Curb Indiscriminate Telecommunication Mast Installation in Nigeria. *Prawo I Więż.* 2022, Vol. 40, Nr. 2, pp. 128–142.

chemical agents implicated in ozone depletion, currently lack any legally mandated reduction targets.²¹

RULE OF LAW AND OBEDIENCE TO COURT JUDGMENTS

The principle of the rule of law is of great significance within a democratic democracy. Without a proper legal framework, the prevailing circumstances will be marked by a lack of order and societal instability. The observance of court decisions is a fundamental necessity for developing and preserving the principle of legal governance. The interconnection between court orders and judgments becomes evident in cases where non-compliance with these legal directives undermines the rule of law. This study aims to examine the evaluations related to environmental conservation. There is evidence to suggest that governmental bodies and other relevant stakeholders, particularly in the Niger Delta region of Nigeria and other commercial areas such as Lagos, Onitsha, Calabar, and Port Harcourt, exhibit a notable deficiency in adhering to a significant portion of legislation about pollution arising from oil mining operations. To ensure Nigeria's compliance with international norms in environmental preservation, it is crucial to comply with court decisions concerning environmental safeguarding.

Environmental protection is a fundamental necessity in any rational society, as it guarantees the safeguarding of environmental integrity for both human occupants and other living organisms while concurrently fostering sustainable development. Franjić²² posits that preserving a conducive environment is an essential prerequisite for fostering well-being and facilitating overall development on a global scale. The international preoccupation with environmental matters and the endeavour to achieve sustainable development remains a prominent and formidable obstacle encountered by governments across the globe. The discipline of environmental conservation encompasses examining and resolving many challenges that emerge from human actions and their consequences on the ecological system. Environmental conservation aims to mitigate the deterioration of the natural environment resulting from factors such as population growth, technological progress, and unsustainable consumption patterns. These variables harm the ecosystem, presenting persistent hazards to the welfare of both humans and animals. The preservation of the environment is crucial for achieving sustainable development. The preservation of the environment plays a pivotal role in advancing social sustainability and safeguarding the well-being and continuity of individuals and human societies, given humans' diverse dependencies on the environment.²³

The 1992 Rio Declaration reaffirms the dedication of the international community to promote and execute the preservation and sustainable advancement of the worldwide ecological and economic system. In addition, it is worth noting that the Brundtland Commission's influential report, which was issued in 1986 and commonly referred to as the Brundtland Report, emphasises the utmost significance of conserving the environment

²¹ KEHINDE, *The effect of global warming in Nigeria...*

²² FRANJIĆ, *c. d.*

²³ HARIVÉLO – HARIFIDY, *c. d.*

within the framework of sustainable development.²⁴ The responsibility to restore regions that have been negatively impacted and to aggressively address ongoing environmental degradation through sustainable development lies with the human race. It is disconcerting to observe that, according to data provided by the Food and Agricultural Organisation,²⁵ around 1.3 thousand animal species, out of the existing total of 6 thousand, are categorised as endangered or are presently undergoing extinction. Pollution in a given society presents considerable obstacles to sustainable development.²⁶ This study aims to examine the level of judicial intervention in environmental protection issues within the legal framework of Nigeria. The analysis will primarily examine various judicial rulings made by different courts. Furthermore, this research investigates how the Nigerian government and other prominent stakeholders conform to the abovementioned rulings.

HIGHLIGHTS OF COURT JUDGMENTS ON ENVIRONMENTAL PROTECTION IN NIGERIA

In the case of *Gbemre v. Shell Petroleum Development Company Nigeria Ltd & Ors*, the court's decision established that the applicants possessed constitutionally safeguarded rights that naturally include the right to a clean and unpolluted environment, which promotes the preservation of good health. The study additionally determined that the continued use of gas flares by the first and second Respondents in their oil exploration and production activities within the neighbourhood of the applicants was a significant violation of the fundamental rights to life, including the right to a healthy environment.

The court held that the failure of the first and second Respondents to carry out an environmental impact assessment in the applicants' community with regards to the potential effects of their gas flaring activities is a clear violation of Section 2(2) of the Environmental Impact Assessment Act, Cap E12 vol. 6, Laws of the Federation of Nigeria 2004. The aforementioned failing has also resulted in an extra infringement of the fundamental rights indicated before. The provisions outlined in Section 3(2)(a) and (b) of the Associated Gas Re-Injection Act, Section 1 of the Associated Gas Re-Injection (Continued Flaring of Gas) Regulations, and Section 1.43 of the 1984 regulations, which grant permission for gas flaring in Nigeria, are not in accordance with the fundamental rights to life and dignity of the human person as guaranteed by Sections 33(1) and 34(1) of the Constitution of the Federal Republic of Nigeria, 1999.

It is imperative to emphasise that despite the praiseworthy decision that has been made, unfortunately, its execution has been inadequate. The aforementioned occurrence can be perceived as disheartening and could be construed as an endeavour to hinder the judiciary's endeavours in addressing environmental concerns in Nigeria. The legal decision being examined does not seek financial restitution from the judiciary, but

²⁴ DOGARU, *c. d.*

²⁵ TOTIĆ, *c. d.*

²⁶ KEHINDE, *Environmental Protection...*

rather aims to correct deficiencies in regulatory frameworks within Nigeria's historical progression.²⁷

The case of *Centre of Oil Pollution v. NNPC*²⁸ involves a lawsuit initiated by the Centre for Oil Pollution Watch (COPW) against the Nigerian National Petroleum Corporation (NNPC)²⁹ on 13 May 2005. The occurrence of the oil leak in Abia State, Nigeria, specifically at ACHA Village, led to the involvement of the Federal High Court's Lagos Division in addressing the legal matter. The defendant was purportedly responsible for the oil leak, as it is stated that their negligence led to the corrosion and subsequent rupture of their pipeline. The spillage resulted in the release of the complete volume of persistent hydrocarbon mineral oil into the adjacent streams and the river of Ineh/Aku, hence causing contamination of two community streams that served as principal water sources for the local population. Despite the defendant's efforts to remediate the surface spills and restore the Ineh/Aku river and streams, the Plaintiff contends that the Respondent displayed negligence in both initiating the oil leak and containing it. Furthermore, the Plaintiff asserts that the spill had detrimental effects on human health, marine life, living resources, and various other uses of the affected streams.

The defendant contested the Plaintiff's legal standing to initiate the lawsuit with the intention of having the case dismissed. On 9 February 2006, the trial court rejected the lawsuit for lack of jurisdiction due to the absence of any genuine harm suffered by the Plaintiff as a result of the alleged oil spill. Furthermore, it was determined that the Plaintiff had not experienced more severe harm compared to other individuals residing in the Acha hamlet. The Court of Appeal gave a decision on 28 January 2013, in which it affirmed the trial court's judgement and dismissed the case. On 9 March 2013, the Plaintiffs filed an appeal to the Supreme Court. On 20 July 2018, the Appellant's appeal was granted unanimously by the Supreme Court.

It was determined, among other findings, that the Appellant non-governmental organisation possessed the legal standing to initiate the legal proceeding. It was established that individuals and organisations driven by public interest have the ability to bring a lawsuit against pertinent public authorities and private entities in order to enforce adherence to applicable laws and guarantee the restoration, preservation, and safeguarding of the environment.

Aka'ahs Joint Stock Company (JSC) asserts that it is undeniable that there is a growing apprehension regarding climate change, ozone layer depletion, waste management, flooding, global warming, and related issues. Countries and organisations, both domestically and internationally, are increasingly implementing more stringent measures to ensure the protection and preservation of the environment, with the aim of benefiting both current and future generations. It is due to this factor, among oth-

²⁷ FATUROI, B. – AGBAITORO, G. – ONYA, O. Environmental Protection in the Nigerian Oil and Gas Industry and *Jonah Gbemre v. Shell PDC Nigeria Limited: Let the Plunder Continue? African Journal of International and Comparative Law* [online]. 2019, Vol. 27, No. 2, pp. 225–245 [cit. 2023-07-30]. Available at: <https://doi.org/10.3366/ajicl.2019.0270>.

²⁸ (2019) NWLR (Pt 1666), p. 518.

²⁹ NNPC is a creation of an act of Parliament; it engages in the prospecting, mining, production, exploration, and storing of persistent hydrocarbon mineral oil, such as crude oil. In various locations around Nigeria, it has offices, oil installations, oil pipelines, oil rigs, and so forth.

ers, that the individual in question strongly believes that the court, as an institution responsible for shaping policies, should broaden the scope of standing for the Plaintiff/Appellant to initiate legal proceedings. The Supreme Court has determined that the justiciability of Section 20 of the Nigerian Constitution, which pertains to the State's responsibility to safeguard the environment, is contingent upon its interpretation in conjunction with Section 4(2) of the Constitution. This latter clause grants the jurisdiction to enact legislation that upholds the principles outlined in Section 20. Furthermore, the Supreme Court has explicitly acknowledged that Section 33 of the Constitution, which guarantees the Right to Life, implicitly encompasses, and establishes a basic right to a clean and healthy environment for all individuals. In addition, it is noteworthy that the Supreme Court has specifically upheld the applicability of the environmental right as stipulated in Article 24 of the African Charter on Human and Peoples' Rights, which has been incorporated into Nigerian law by the African Charter Act, Cap A9 LFN 2004.

The appeal in the matter of *Shell Petroleum Development Company of Nigeria Limited v. Isiah & 2 Ors*³⁰ pertained to a decision made by the High Court, wherein the Respondents were granted compensation in the amount of N22,000,000.00 (Twenty-Two Million Naira). The basis for this award was the High Court's lack of jurisdiction to preside over the case. The issue involved the contamination of the Respondents' agricultural areas, fishponds, and waterways as a result of the oil exploration efforts conducted by the applicant. The Respondents initiated legal proceedings against the Appellant, seeking redress that encompassed the payment of what they deemed to be just and equitable compensation for the harm and detriment inflicted by the Appellant. The Appellant was ordered to pay damages by the High Court, and then filed an unsuccessful appeal with the Court of Appeal. The Supreme Court invalidated the High Court's verdict due to its lack of authority, rendering it null and void. The principle was established that the matter of jurisdiction could be raised at any point during the legal proceedings, including during an appeal in the highest court, the Supreme Court. Once an objection is raised, it is important to consider that the issue pertains to the jurisdiction and validity of the trial court in adjudicating the case. The consideration of jurisdiction is of utmost importance due to the fact that when a court assumes authority that it lacks, its decision becomes null and void. The court extended its argument by asserting that since the Appellant was responsible for the damage to the Respondents' property during mining activities, the nature of the Respondents' claim lay exclusively within the jurisdiction of the Federal High Court.

Taking into account the inherent worth of the case, it is evident that the Respondents were impacted by the actions of the Appellant due to the jurisdictional problem at hand. Ultimately, the Supreme Court of Nigeria ruled in favour of the Appellant. This ruling could potentially impede environmental conservation efforts in Nigeria, potentially dissuading others from undertaking initiatives pertaining to environmental protection.

³⁰ 3PLR/2001/280 (SC).

The Supreme Court of Nigeria rendered a decision on the issue of jurisdiction in the case of *Chevron Nigeria Limited v. Nwuche and Others*.³¹ This document pertains to an appeal lodged in response to the ruling issued by the Imo State High Court on 22 July 2003. The Respondents filed a petition with the Court on 6 June 2000, requesting the issuance of a Writ of Summons against the Appellant (in the lower court). In their petition, the Respondents sought the following remedies from the Appellant:

The Plaintiff claims against the defendant, a declaration that the token sum of N2,605,800.00 (Two Million Six Hundred and Five Thousand Eight Hundred Naira) paid by the defendant to the Plaintiffs in 1996 is compensation on the economic crops and trees belonging to the Plaintiffs which were destroyed by the defendant in the Plaintiff's land which situate and lying at Umukene Ohaji in the Ohaji/Egbema Local Government Area of Imo State, measuring approximately 50 (fifty) hectares and that it is not a fair and adequate compensation for the loss of use of the said land within the spirit and intentment of the oil pipe lines enactment; the sum of N2,000,000.00 (Two Million Naira) per hectare for a period of 20 years from 1996 to 2016 as compensation for the loss of the use of the said land measuring approximately 50 (fifty) hectares in area which situate and lying at Umukene Ohaji in the Ohaji/Egbema Local Government Area upon which Chevron Nigeria Limited is carrying on exploitation and/or exploration for mineral oil. It was requested by the esteemed court that the defendant be directed to provide a just and appropriate reparation, as determined by the Estate Valuer, for the period spanning from 1996 to 2016, encompassing a total of 20 years.

The Appellant subsequently submitted a Notice of Preliminary Objection on 5 November 2001, asserting that the Plaintiffs' action before the Honourable Court was invalid due to a lack of jurisdiction. This lack of jurisdiction is purportedly based on Section 230(10) of the Constitution (Suspension and Modification) Decree No. 107 of 1993 and S.7(1)(p) of the Federal High Court (Amendment) Decree No. 60 of 1991. Supreme Court noted that as the objection was taken to the jurisdiction of the trial Court to try the action, it had an abiding duty then to inquire whether its jurisdiction had been ousted. It has to be guided by the principle that every superior court of record guards its jurisdiction jealously. In the interpretation of a statute ousting jurisdiction as in that matter, the court is not imbued with the power to inquire as to why its jurisdiction has been ousted. It can only inquire into whether or not, on the prevailing facts and circumstances, the jurisdiction had been ousted or restricted. The court must construe the provisions of a statute ousting jurisdiction strictly. However, once it is clear that an out-of-jurisdiction decision was intended, and from the facts of the case, it comes squarely within the four corners of the statute, the court has no alternative but to hold that its jurisdiction has been ousted. It does not behove the Court to attempt to dance around it and wring a false meaning out of the statute's language. Therefore, it was held that the trial court lacked jurisdiction to hear and decide the lawsuit brought by the Respondent. The trial judge should have dismissed and removed the Respondent's case. The only matter to be resolved in this appeal was decided in favour of the Appellant and

³¹ (CA/PH/420/2005) [2016] NGCA 101 (15 December 2016) (CA/PH/420/2005) [2016] NGCA 101 (14 December 2016).

against the Respondents. The Appellant's appeal is successful. The ruling of the Imo State High Court, issued on 22 July 2003, was overturned. Consequently, the Respondents' case was dismissed.

In the case of Nigeria *Agip Oil Company Limited v. Chief Nweke and Another*,³² the Plaintiffs, referred to as the Respondents, initiated legal proceedings at the trial court. They sought declaratory reliefs and monetary compensation in relation to a significant diesel spill that transpired on 20 August 2001. The spill originated from the facility operated by the Appellant, resulting in the contamination of the Respondents' creeks, family pond channels, and sources of potable water. The individuals appealing the case acknowledged the occurrence of the leak and made a commitment to remediate the contaminated environment. However, they ultimately did not fulfil their pledge. This elucidated the rationale behind the Respondents' initiation of legal proceedings in the trial court, wherein they sought the Appellants' compliance with environmental remediation measures and compensation for the harm caused. The involved parties engaged in the reciprocal exchange of legal documents known as pleadings. Following a careful consideration of the arguments presented by the parties and the testimonies provided by their respective witnesses, the trial court rendered a decision in which it ruled against the Appellants in this case and in favour of the Plaintiffs, who are the Respondents in this matter.

The Appellants were only awarded a sum of N313,247,056.00 (Three Hundred and Thirteen Million, Two Hundred and Forty-Seven Thousand, Fifty-Six Naira) by the trial court. The individuals who initiated the legal action, expressing their discontent with the decision made by the lower court, proceeded to appeal the case to the higher court known as the Court of Appeal. In order to initiate the appeal process, they submitted a formal document known as a Notice of Appeal. The counsel was fully cognizant of the fact that a sum of N5,000.00 (Five Thousand Naira) was required as filing fees for the submission of the notice of appeal. However, they made the decision to remit only N200.00 (Two Hundred Naira). A multitude of deficiencies were identified by the Respondents in relation to the appeal filing, leading them to submit a notice of preliminary objection. Subsequently, the individual proceeded to implore the lower court to dismiss the appeal, resulting in the lower court issuing a judgement unfavourable to the Appellant. The Appellant, dissatisfied with the rulings made by the lower court, lodged an appeal with the Court of Appeal. Both parties submitted their respective briefs of argument and matters for consideration in relation to the appeal.

The court deliberated on the question of whether the lower court's decision to dismiss the appeal was justified. The discretionary decision made, which relied on the assumption that insufficient filing fees would result in the dismissal of an appeal, was determined to be an incorrect exercise of discretion. The court made a distinction between the non-payment of fees and payment of insufficient fees. The principle established was that a court of law should not interpret the terms of a statute in a manner that would restrict people's ability to seek legal recourse, thereby impeding a litigant's access to the judicial system and the pursuit of justice. The Appellant was denied entry to the court as

³² (SC.162/2013)[2016] NGSC 73 (22 January 2016).

a result of the lower court's decision to strike out the appeal. Consequently, the appeal was upheld, resulting in the Appellant being directed to remit the appropriate fees.

In the case of *Chief (Dr.) Pere Ajuwa & Anor v. The Shell Petroleum Development Company of Nigeria Limited (SPDC)*³³ was instructed by the House of Representatives on 28 May 2002, to provide compensation of N1.5 billion to the Appellant, following a petition. The total amount awarded signifies the reparation sought for the ecological deterioration experienced by the Appellants' localities due to the oil extraction activities conducted by the Respondent starting from 1956. On 24 February 2006, a Federal High Court located in Port Harcourt, Rivers State, issued an order to the Respondent, directing them to adhere to the settlement and fulfil the payment of the specified amount to the Appellants. The party being addressed successfully won a temporary suspension of the implementation of the court's decision at the trial level. The court issued a conditional stay of execution. The sequence of events unfolded in the following manner:

The execution of the judgement in this legal case was temporarily halted, provided that the judgement debtor/Applicant fulfilled the requirement of depositing the judgement sum of N1.5 Billion with the Central Bank of Nigeria. This deposit was requested to be made in an account that generated interest and was to be under the name of the Chief Registrar of the Federal High Court of Nigeria. The deadline for that deposit was set to noon on Monday, 22 May 2006. The purpose of the deposit was to await the final decision of the appeal process.

The Respondent expressed discomfort with the aforementioned situation. The individual expressed a desire for diversity or variation. To the great satisfaction of the individual in question, the Court of Appeal granted the requests made by the Respondents. The court, in its decision to grant an unconditional stay of execution, stated that based on the unique circumstances of the case, it was the court's opinion that there were valid and justified grounds to approve the Applicant's request for an unconditional stay of execution. In the event of an unsuccessful appeal, the Applicant possessed assets that fell under the jurisdiction of the court, which could be seized in order to satisfy the outstanding judgement debt. On the contrary, if the appeal was successful, the Appellant's achievement would be rendered futile and ineffective. The applicant would not be present to partake in the benefits resulting from their triumph. The Appellant expressed dissatisfaction with the Court of Appeal's decision to award an unconditional stay of execution and subsequently sought recourse from the Supreme Court. According to Bode Rhodes-Vivour JSC, the granting of a stay of execution, whether conditional or unconditional, is wholly subject to the discretion of the court. Appeals courts generally exhibit reluctance to intervene in the exercise of discretion by lower courts, however they may be required to intervene if the discretion was improperly exercised, influenced by irregularities, or if it is deemed necessary for the sake of justice.

The decision to accept or refuse an application for a stay of execution is subject a discretionary judgement. The judge is required to carefully evaluate the factual and contextual elements of the case, as well as the relevant legal principles, and exercise impartiality rather than acting based on personal preferences. The individual in question

³³ (SC.290/2007) [2011] NGSC 7 (16 December 2011).

must take into account the conflicting rights of the involved parties and employ their discretionary powers in a manner that is both fair and prudent. The justices of the Court of Appeal, after careful deliberation and thorough analysis, considered the potential outcomes of both an unsuccessful and successful appeal. They appropriately determined that an unconditional stay of execution was the appropriate course of action in order to ensure justice in this case. This decision was based on the fact that the Respondent, involved in this appeal, possessed assets within the court's jurisdiction that could be utilised to satisfy the judgement amount. The available evidence and contextual factors did not substantiate the rationale for allocating N1.5 billion in funds for the purpose of awaiting a final verdict following protracted appeals. The intervention by the Court of Appeal in the trial court's use of discretion to grant a conditional stay was evidently motivated by the pursuit of justice. The decision made by the Court of Appeal to grant an unconditional stay of execution was justified.

According to Muhammad Saifullah Muntaka-Coomassie JSC, it is necessary to address the appropriateness of this appeal before concluding this discussion. Although I do not advocate for a party to relinquish its constitutional right to appeal, it is important for legal representatives to prioritise expeditious proceedings and resolution of the appeal if the party strongly disagrees with the decision made by the lower court. In this particular instance, the lower court issued its judgement on 5 October 2007 and scheduled the appeal for a hearing on 21 June 2007. During this period, the appeal would have been reviewed and resolved. In contrast, experienced senior lawyers have undertaken the arduous process of appealing the use of the discretionary power by the lower court. The year 2011, which marks a period of four (4) years subsequent to the lower court's consideration and resolution of that appeal, the appeal is being remanded to the lower court for trial following a four-year period during which the Appellants were unaware of the outcome regarding the disputed funds. This action, although acknowledging the need for respect, is not conducive to fostering positive outcomes and should be avoided in the future. I will refrain from elaborating further on this matter.

In the aforementioned instance, the Supreme Court expressed its worry with the protracted handling of environmental safety concerns, emphasising the need for expeditious resolution. Undoubtedly, this is a significant deterrent for litigants involved in environmental cases.

The case of *The Shell Petroleum Development Company of Nigeria Limited v. Chief G.B.A Tiebo & Ors*³⁴ involves a crude oil spill that occurred due to the equipment owned by Shell Petroleum Development Company of Nigeria Limited. The chiefs of the Perembiri community, acting in their capacities and on behalf of the village community, initiated the legal proceedings. In the vicinity of the Perembiri hamlet and Nun River in the Niger River Delta, an approximate quantity of 600 barrels of oil was released by the company's equipment. The oil leak had detrimental impacts on various aspects of the Perembiri community, including farmland, fishing regions, water sources, and sacred places. Moreover, the disaster significantly disrupted the way of life of the predominantly child-populated Perembiri population. The community leaders initiated legal action

³⁴ (2005) 9 NWLR (Pt.931) 439; (2005), pp. 3–4, S.C 137.

based on allegations of carelessness against the firm, with the objective of pursuing compensation for both general and specific damages resulting from the injury incurred. The court granted the Claimants general damages and a sum allocated for the purpose of covering their legal expenses. The Perembiri community expressed discontentment about the granted damages and subsequently lodged an appeal with the Court of Appeal, which ultimately dismissed their legal action. The Appellants brought their case to the highest court in the land, the Supreme Court.

The court opined that exceptional damages necessitated distinct evidentiary standards in comparison to general damages. General damages refer to the compensatory awards that courts presume to have resulted from the relevant behaviour. However, in order to make a claim for special damages, the Plaintiff must provide irrefutable evidence that the claimed extraordinary harm was truly suffered, demonstrating both the existence of loss and the causal relationship. In order to substantiate a claim for special damages, it is necessary to provide evidence that is both qualitative and believable and may be calculated based on the particular facts and circumstances of the case.

The Supreme Court expounded upon its stance, asserting that it would solely intervene in the determination of damages if the granted amount were deemed “clearly excessive” or “clearly inadequate”, or if the court had erroneously applied a damages concept in reaching the decision. In this particular situation, it was determined that the aforementioned assertion was not accurate, as the Claimants had provided substantial proof regarding the significant harm inflicted upon crops, farmland, waterways, and water supplies. This evidence served as a valid basis for supporting the requested amount of general damages. The judgement provides additional clarification regarding the extent of power that courts possess when granting general damages, which is comparatively greater, as opposed to special damages, when their discretion is relatively limited. The augmentation of general damages as a means to redress Plaintiffs for their failure to substantiate specific damages is not permissible.

In light of the aforementioned instance, the matter of establishing the technical aspects associated with demonstrating special and general damages was also raised. There should be no requirement to establish specific harm in order to demonstrate the impact of the Appellant’s actions on the community. The primary concern should be the significant harm inflicted upon the affected individuals by the Appellant, which may have long-lasting effects that cannot be fully remedied within their lifetime. The notion of sustainable development should serve as the criterion for evaluating these circumstances, taking into account intergenerational justice.

The case of *Okpabi v. Royal Dutch Shell Plc*³⁵ involved the initiation of collective legal actions by over 40,000 individuals residing in two impacted regions within the Niger Delta. These individuals, referred to as the “Claimants”, pursued legal recourse in the English courts against Royal Dutch Shell (RDS) and one of its Nigerian affiliates, Shell Petroleum Development Company of Nigeria Ltd (SPDC). The Claimants contended that the environmental harm caused by the pipelines run by SPDC, including oil spills and pollution, had significant consequences. These consequences included rendering

³⁵ UKSC 2018/0068.

natural water sources unfit for various essential activities such as drinking, fishing, agriculture, washing, and recreation. The Claimants endeavoured to establish the parent business, RDS, as being directly accountable for the conduct of its subsidiary. They contended that RDS had a legal obligation towards them, which it had been violated by neglecting to prevent or rectify the significant harm inflicted upon their communities. The authors contended that RDS exercised substantial influence over SPDC and its activities, taking on the responsibility for SPDC's operations. This was achieved by the implementation of RDS' comprehensive required policies across the entire group, which the authors asserted were pertinent to the resulting harm.

The United Kingdom's Supreme Court has given a decision affirming that the parent business bears responsibility for the conduct undertaken by its subsidiaries located abroad. The Supreme Court, in overturning the decision of the Court of Appeal, reached a unanimous consensus that there exists a reasonable argument regarding the potential obligation of the parent company to exercise a duty of care towards the Nigerian citizens who have raised claims regarding the purported environmental damage and violations of human rights perpetrated by Shell's Nigerian subsidiary. This argument is predicated on an assessment of the extent of control and de facto management exercised by the parent company. The judgement provides advice regarding the circumstances in which a parent corporation may bear a duty of care towards individuals affected by the actions or omissions of its foreign subsidiary.³⁶ A noteworthy advancement has been documented in environmental law disputes within the context of Nigeria. Victimised parties now have the opportunity to seek redress through international judicial institutions in order to have their grievances addressed. Undoubtedly, this development represents a noteworthy advancement for the Nigerian populace.

The case of *Chevron Nigeria Limited v. High Chief Babatunde Victor Sedara & Ors*³⁷ involves an appeal arising from an interim ruling made by the Federal High Court in Lagos. The Court below dismissed the Appellant's application, which argued that the action of the Respondents for trespass and nuisance should not be subject to the Limitation Law of Lagos State. The Appellant contended that the act complained of is ongoing, and therefore falls outside the scope of Section 9 of the Limitation Law of Lagos State. The Appellant asserts that subsequent to the acquisition of OML 49 in 1967, it commenced efforts towards the development of the Omuro Oil Well within the communities inhabited by the Respondents in 1992. The commencement of oil production at the Omuro Oil Field occurred in the latter part of 1995, and its cessation took place in May 1998, when the party in question temporarily halted operations and subsequently shut the well. However, the opposing party argued that the Appellant was conducting operations in the Omuro Oil Field within the communities of the Respondents throughout the relevant period. They claimed that the Appellant had established infrastructure and deployed various equipment for their activities during the exploration and extraction

³⁶ *Okpabi v. Royal Dutch Shell Plc*: UK Supreme Court allows Nigerian citizens' environmental damage claim to proceed against UK parent company. In: *LawCareNigeria* [online]. 2021 [cit. 2023-02-27]. Available at: <https://lawcarenigeria.com/okpabi-v-royal-dutch-shell-plc-uk-supreme-court-allows-nigerian-citizens-environmental-damage-claim-to-proceed-against-uk-parent-company-white-case-llp/>.

³⁷ (2019)LCN/12758(CA).

of crude oil. Additionally, the Appellant had undertaken dredging activities in the river located within the communities and that during this process, dumpsites were created from which substances are released from the exploration/exploitation activities in the communities thereby polluting the river and causing continuous damage to the ecosystem, the livelihood, and the environment of the Respondents at large.

The Court of Appeal, in its decision to reject the appeal, acknowledged the analysis of Justice Joseph Shagbaor Ikyegh, J.C.A (as he then was), who observed that the statement of claim can be interpreted as a combination of the tort of unabated nuisance and the alleged environmental degradation. This degradation is said to have caused changes to the ecosystem of the Rewoye and Sedara Communities in Ilaje, Ondo State. The lower court's decision to conclude that the case, as presented, is not subject to limitation law due to the ongoing nature of the loss or injury is justified. The individual proceeded to assert that they found no merit in the appeal and subsequently dismissed it. They deemed the interlocutory appeal largely unnecessary when considering the timing of the application, as it consumed valuable time, resources, and effort. It would have been more efficient to address the matter alongside the substantive action. Consequently, they directed an expedited hearing of the primary action at the lower court. The Appellant was required to remit a sum of N500,000.00 (Five Hundred Thousand Niara) as costs to the defendants.

The Court of Appeal expressed discontent over the appeal, deeming it superfluous and mostly employed as a tactic to impede the administration of justice. This pattern of utilising legal proceedings to address matters pertaining to environmental harm has consistently been seen. Addressing environmental difficulties in Nigeria has proven to be a persistent problem.

The case of *Shell Petroleum Development Company Ltd v. Councillor F.B. Farah and Others*³⁸ involved a legal action initiated by five households residing in close proximity to an oil well operated by Shell in Nigeria. The Plaintiffs sought compensation for the adverse effects on their land caused by the corporation's activities. Significant destruction was incurred, rendering the claims unable to utilise the area for agricultural, hunting, or analogous pursuits as a result of the unregulated discharge of oil stemming from the failure of the pressure control mechanisms. The agricultural losses incurred due to the destruction of crops and trees were partially reimbursed, however, the financial remuneration provided by Shell was insufficient to fully cover the cost of the affected area. Furthermore, Shell assumed responsibility for the affected land in order to undertake restoration efforts. During this period, the five families were unable to utilise the region due to its high level of pollution. The five families directly impacted by the situation determined it imperative to pursue legal action, contending that the land had not undergone sufficient restoration efforts and that Shell had yet to fulfil its obligation to provide just compensation. Shell refuted this position and petitioned the court for the dismissal of the lawsuit on the grounds that an excessive amount of time had elapsed prior to the filing of the second case, rendering their claim already barred by the statute of limitations.

³⁸ (1995) 3 NWLR (pt.382), p. 148.

The Claimants were successful in their case as the court determined that they had not received fair and sufficient compensation. They asserted their entitlement to various forms of damages, including compensation for the reduced value of the land (standard measure), compensation for the profits they lost (consequential losses), and compensation for potential future damages that could reasonably be anticipated due to the defendant's actions (prospective loss). The court has implemented the principles that regulate the determination of compensation for property damage. The underlying principle of awarding damages to individuals who have suffered losses is to restore them to the state they would have been in had the loss not transpired, to the fullest extent possible through monetary compensation. The court admitted expert testimony that substantiated the insufficient repairs made to the land, leading to the calculation of damages on this basis. The court determined that the lawsuit was not subject to statutory limitations, as the commencement of the limitation period was deemed to be triggered by the Claimants' awareness of Shell's stance on inadequate land rehabilitation, rather than the occurrence of the oil blowout.

The study of this case reveals that the Appellants were found to be non-compliant with the order to remediate the contaminated land, which served as the primary reason for initiating this subsequent legal action. This observation substantiates the claim that the majority of decisions pertaining to environmental conservation are not adhered to.

The case of *Oguru and Efanga et al. v. Royal Dutch Shell PLC and Shell Petroleum Development Corporation of Nigeria Ltd.*³⁹ was the legal action initiated by four Nigerian farmers against Shell. This litigation was commenced in 2008 in The Netherlands, the jurisdiction where the parent corporation, Royal Dutch Shell, is headquartered. The Plaintiffs have put out three complaints pertaining to the impact of oil spills on the communities of Oruma, Goi, and Ikot Ada Udo. The Dutch Court of Appeal declared Shell Nigeria liable for the environmental harm resulting from the oil leaks that occurred in January 2021. The legal obligation of Royal Dutch Shell to exercise a duty of care towards the affected communities was established, since the company was found to be accountable for its failure to prevent additional oil leaks.

SOME LIMITATIONS TO ENVIRONMENTAL LAW CASES IN NIGERIA

In the Nigerian legal system, the concept of jurisdiction has been frequently utilised as a means to impede the attainment of environmental justice for victims affected by environmental disasters. As a consequence of this phenomenon, a significant proportion of individuals affected by environmental degradation no longer perceive resorting to legal proceedings as an attractive means of seeking compensation or resolution. The Niger Delta region has witnessed the emergence of violence and militancy as a means of addressing their grievances. According to Okongwu and

³⁹ *Oguru and Efanga et al v. Royal Dutch Shell PLC and Shell Petroleum Development Company of Nigeria LTD*, The Hague Court of Appeal (29 January 2021), ECLI:NL:GHDHA:2021:132.

Imoisi,⁴⁰ this phenomenon was observed in the legal case of *Shell Petroleum Development Company of Nigeria Limited v. Isiah & 2 Ors*,⁴¹ as well as in several other cases previously examined.

Furthermore, a significant number of legal issues related to environmental protection in Nigeria have unwarranted delays within the judicial system, so hindering the progress of justice in environmental law matters. Individuals who wish to pursue legal action in a court of law to address infringements on their basic rights related to environmental preservation are dissuaded by the prolonged duration of the judicial proceedings. As commonly expressed, the adage “justice delayed is justice denied” resonates with the observations made by Muhammad Saifullah Muntaka-Coomassie JSC in the case of *Chief (Dr.) Pere Ajuwa & Anor v. The Shell Petroleum Development Company of Nigeria Limited* previously mentioned.

CONCLUSION AND RECOMMENDATION

It is important to note that a significant majority of the investigated instances solely provide compensation to the victims or issue directives for the remediation of the impacted region. However, it is seen that the prescribed clean-up measures are not consistently being implemented in accordance with the given orders. The inquiry pertains to the potential consequences for communities impacted by environmental deterioration if they are solely compensated through damages. Is it possible to achieve sustainable development within this particular community? The response to these inquiries is negative. This observation highlights the necessity for further efforts in Nigeria to effectively address environmental concerns. In certain cases, it is imperative to issue explicit directives to halt the operations of certain oil companies in Nigeria, particularly in the Niger Delta region. This is necessary due to the significant detrimental impact inflicted upon these areas. It is crucial to prioritise addressing the country’s environmental challenges rather than solely compensating for the harm caused, as such compensation alone does not effectively prevent future occurrences.

In the case of *Mobil Producing (Nig) Unlimited v. Ajanaku & Anor*,⁴² the Respondents made claims asserting that the Appellant had acted negligently in regards to the spillage incident. They argued that the Appellant had failed to carry out the required cleanup procedures and neglected to implement post-impact rehabilitation measures aimed at restoring the affected natural resources. Nigeria is now grappling with several notable challenges in the realm of environmental preservation.

This study has analysed various judicial decisions pertaining to the preservation of the environment in Nigeria. The prolonged duration of court cases, primarily due to jurisdictional concerns, has emerged as a prominent obstacle in the adjudication of environmental law cases within the Nigerian legal system. Consequently, individuals have

⁴⁰ OKONGWU, C. J. – IMOISI, E. S. Enhancing Environmental Litigation: the Key to Sustainable Environmental Protection in Nigeria. *IRLJ*. 2020, Vol. 2, No. 2, pp. 116–125.

⁴¹ Ibid.

⁴² (2021)LCN/14931(CA).

been dissuaded from pursuing such cases due to the intricate technicalities involved. Additionally, it has been observed that the execution of the majority of these judgments is a significant challenge. Furthermore, it has been observed that due to the numerous obstacles encountered in initiating environmental law litigation in Nigeria, individuals now resort to international courts in order to seek remedies for the infringement of their environmental rights. These courts have played a substantial role in addressing such matters, thereby eliciting a sense of satisfaction among numerous communities and individuals in Nigeria. This observation was previously highlighted in the preceding sections of this paper. It is imperative for Nigerian courts to align themselves with the approach taken by international courts regarding environmental matters, while simultaneously enhancing the availability of legal recourse and redress for individuals who have experienced environmental damage within the country. In order to attain environmental sustainability, it is imperative for Nigeria to enhance its efforts in the realm of enforcing environmental rights through judicial means. It is additionally recommended that the establishment of specialised courts be considered for the purpose of adjudicating environmental protection matters. Furthermore, the implementation of specific court rules to address the complexities inherent in these cases, as previously mentioned, is also advised. In order for Nigeria to align with global standards in environmental conservation, it is imperative to adhere to the principles of the rule of law, promptly comply with court rulings, and demonstrate a strong commitment to their implementation.

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