
| RESEARCH ARTICLE**Climate Change Litigation in Nigeria: The Case of Oloibiri and the Role of U.S. Jurisdiction in Advancing Environmental Justice****Omotola Osude***LL.B, B.L, LL.M, Centre for Commercial Law Studies, Queen Mary University of London, UK***Corresponding Author:** Omotola Osude, LL.B, B.L, LL.M, **E-mail:** omotolaajamu@gmail.com

| ABSTRACT

This article critically examines the legal and environmental implications of climate change litigation through the lens of Oloibiri, a historic oil-producing town in Nigeria. Drawing from Nigeria's environmental legal framework and its interaction with international climate obligations, the paper explores how domestic courts and regulatory institutions have responded or failed to respond to issues of environmental degradation, corporate accountability, and the broader climate crisis in oil-producing regions. Several of the cases analysed demonstrate how victims of oil-related environmental harm in Nigeria were compelled to seek redress in U.S. courts due to the failure of Nigerian judicial systems to deliver climate justice. This transnational litigation trend underscores the role of the U.S. as a jurisdiction of last resort for environmental victims in the Global South and highlights the significance of U.S. tort law, class actions, and human rights statutes in shaping environmental accountability. The article concludes by advocating for the strengthening of Nigeria's judicial capacity, community legal empowerment, and statutory reforms to support climate justice, especially for historically exploited communities.

| KEYWORDS

Climate change litigation, Domestic courts, Judicial systems

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1. Introduction**1.1 Brief history of Oloibiri as the first oil discovery site in Nigeria**

Oil exploration in Nigeria started in 1956 with the discovery of crude oil in Oloibiri, a small community located in Bayelsa State. This discovery marked a major turning point in Nigeria's economic and industrial development, leading to its emergence as one of Africa's largest oil producers, accounting for over 2 million barrels from its refineries per day at its peak (BP, 2022). However, this economic transformation came at a significant environmental and socio-economic cost, especially for the inhabitants of the Niger Delta region in Nigeria. The Niger Delta region is where oil and gas deposits are abundant, the oil companies are mostly situated here due to proximity to these natural resources also the refineries and the oil rigs are in this region.

The Oloibiri community was once a symbol of economic promise and is now a conspicuous example of the negative consequences of oil exploration, including oil spills, deforestation, soil and water contamination, and health hazards caused by exposure to harmful pollutants (Amnesty International, 2009). Reports highlight that over 13 million barrels of oil have been spilt in the Niger Delta since oil production began, making it one of the most polluted regions globally (UNEP, 2011). Despite these devastating effects, Oloibiri has been abandoned and neglected, with

no meaningful efforts made to remediate the damage or compensate affected communities (Centre for Oil Pollution Watch v NNPC, 2019; Amnesty International, 2009).

This essay aims to assess Nigeria's environmental laws using the Oloibiri community, Bayelsa State, Nigeria, as a case study and explore how this is in alignment with the country's climate change goals.

This essay will critically examine Oloibiri as a case study to evaluate Nigeria's environmental laws and their implementation in addressing oil-related environmental damage. It will further assess if the legal framework in Nigeria is in line with Nigeria's climate change goals under international agreements, particularly the Paris Agreement (2015) and other related treaties (Paris Agreement, 2016; UNFCCC, 2021).

1.2 Essay Objectives

This essay seeks to:

1. Highlight the gaps in Nigeria's legal and policy frameworks on environmental governance.
2. Evaluate challenges in enforcement and compliance with environmental laws in Nigeria.
3. Suggest legal reforms and policy recommendations to strengthen accountability, reduce pollution, and transition to cleaner energy sources in Nigeria.

1.3 Structure of the Essay

- Part 2 of this essay provides a historical overview of Oloibiri, examining the environmental degradation caused by oil exploration and the socio-economic consequences for the community.
- Part 3 of this essay analyzes Nigeria's environmental laws, including the Environmental Impact Assessment Act, the Petroleum Act, the National Oil Spill Detection and Response Agency Act, the Harmful Waste (Special Criminal Provisions) Act 1988, and the NESREA Act 2007, finding deficiencies and enforcement challenges these provisions have faced.
- Part 4 of this essay appraises Nigeria's climate change commitments under the Paris Agreement and evaluates the conflicts between oil policies and sustainability targets.
- Part 5 of this essay presents recommendations for legal reforms and policy changes to enhance environmental protection and accountability while encouraging a transition to renewable energy sources in Nigeria.
- Part 6 of this essay concludes with major findings and reiterates the need for stronger environmental governance as part of Nigeria's broader climate strategy.

2. Oloibiri: A Case Study in Environmental Damage

2.1 History of oil exploration in Oloibiri

Oloibiri, located in Bayelsa State, Nigeria, is historically significant as the site of Nigeria's first commercial oil discovery in 1956 (Omorogbe, 2001). This discovery, made by Shell-BP, marked the beginning of large-scale oil exploration and production in Nigeria (Frynas, 2000). By 1958, oil exports from Nigeria had commenced, transforming the country into an important player in the global energy market (BP, 2022).

Despite its economic contribution to Nigeria's GDP, Oloibiri soon experienced a rapid decline after oil extraction activities ceased. The wells were abandoned without proper decommissioning, leaving behind a legacy of pollution, environmental degradation, and economic hardship for the local community (UNEP, 2011). Today, Oloibiri stands as a symbol of neglect, with no evidence of the wealth it once generated (Centre for Oil Pollution Watch v NNPC, 2019).

2.2 Environmental problems (e.g., pollution, deforestation, health risks)

The environmental impacts of oil exploration in Oloibiri are severe and multifaceted:

Oil Spills: Extensive oil spills have contaminated the soil and water sources, making them unsafe for farming, fishing, and drinking (Amnesty International, 2009). The major occupation in this community before the exploration

was fishing and farming, but since exploration began here, the fishes in the rivers were little to none while their lands became infertile.

Gas Flaring: Uncontrolled flaring of associated gas has released harmful greenhouse gases, contributing to air pollution and climate change (Okereke, 2017). Harmful air inhaled by the inhabitants of this community and neighbouring communities has led to respiratory issues for a lot of them.

Deforestation and Land Degradation: Oil extraction led to widespread deforestation, disrupting ecosystems, and reducing soil fertility (Steiner, 2010). The farmlands of the community inhabitants were destroyed while Shell was trying to find crude oil. before they finally found crude oil afterwards oil was found, but the lands were now rendered infertile due to oil spillages.

Water Pollution: Toxic chemicals from spills and drilling have seeped into rivers and groundwater, posing health risks to residents (UNEP, 2011). Most of the time the inhabitants of Oloibiri had to go to neighbouring communities many kilometres away by foot to fetch clean water to cook and drink, while some of them had to purchase sachet water due to lack of access to clean drinking water, those who had no choice had to drink the water they had in the community.

Health Risks: Studies show increased cases of respiratory diseases, cancers, and skin conditions linked to prolonged exposure to pollutants (Human Rights Watch, 1999). Many of the people who have lived in Oloibiri are plagued with one health issue or the other because of long-term exposure to contaminants and pollutants.

2.3 Socio-economic consequences for the community

Oloibiri's environmental degradation has had profound socioeconomic effects, such as:

Loss of Livelihoods: Fishing and farming, once the primary occupations, became unsustainable due to polluted land and water (Frynas, 2000). Fishermen who went to the river had little to no catch because the fish in the rivers were dead. Farmers could not make a living either because the soil yielded no produce any more after the contamination.

Poverty and Unemployment: The community was left in poverty, with limited job opportunities after oil companies departed (Amnesty International, 2009). Although the oil companies occasionally offered very limited skilled and mostly unskilled employment opportunities to the locals, it did not solve the longterm issues of almost permanent environmental degradation already done to the community.

Infrastructure Decay: Promised infrastructure development and basic amenities, such as schools, roads, and hospitals, failed to materialize, leaving the community underdeveloped (Steiner, 2010). These oil companies failed to construct anything material to alleviate the people of the Oloibiri community from poverty; they failed in their corporate social responsibility to the people of Oloibiri. they promised to do these things but never did.

Social Unrest: Feelings of marginalization and injustice have fuelled conflicts and protests against the government and oil companies (Omorogbe, 2001). Due to all these empty promises and the people feeling slighted by the actions of oil exploration companies, the government and community leaders, the emergence of militant groups in different fractions emerged which began a vicious cycle of kidnapping and extorting in the Niger Delta region of Nigeria where oil exploration activities took place. These militant groups laid siege and regularly kidnapped workers of the oil companies in return for monetary compensation because they believed they had taken what belonged to them and also destroyed them. A lot of people have lost their lives in this process, which often led to an exchange of gunshots between the military and these militant groups. These groups also tried to prevent these oil company officials from continuing exploration activities, but these companies had the government backing.

2.4 Importance of studying Oloibiri for understanding Nigeria's broader environmental issues

Oloibiri is not just a local issue; it is a microcosm of Nigeria's broader environmental challenges. The community's experience highlights the failures of environmental governance, weak enforcement of environmental laws, and lack of accountability in the oil sector (UNEP, 2011). Studying Oloibiri provides valuable insights into the gaps in Nigeria's legal frameworks and the urgent need for sustainable development policies (Okereke, 2017). It is worth noting that although Oloibiri was the first exploration site in Nigeria where Oil was discovered after about 20 years of searching for crude oil, the damage these companies did to the community went unpunished and unattended by the government of Nigeria. The issue that drew attention to the vast environmental harm that has occurred by exploration activities in the Oil-producing regions of Nigeria is the Ogoni Land issue. The Ogoni land issue put Nigeria at the forefront of international criticism due to the government's alleged collusion with these companies, which caused its people so much hardship.

3. Analysis of Nigeria's Environmental Laws

3.1 Overview of key laws

Nigeria has enacted several environmental laws aimed at regulating oil exploration and mitigating its adverse effects. Pertinent legislation includes:

Environmental Impact Assessment (EIA) Act 1992: The EIA Act mandates that proposed projects undergo environmental assessments to identify and mitigate potential impacts before implementation (Environmental Impact Assessment Act, 1992). It seeks to prevent or minimize environmental damage caused by industrial activities, including oil exploration. However, critics of this act have argued that the EIA process is often undermined by weak enforcement, lack of transparency, and political interference. Oil companies frequently fail to conduct proper assessments or ignore recommendations made during the process (UNEP, 2011).

Petroleum Act 1969: The Petroleum Act provides the legal framework for oil exploration, granting licenses and leases for operations (Petroleum Act, 1969). Despite its regulatory role, the Act has been criticized for prioritizing resource extraction over environmental protection, with minimal provisions addressing pollution and ecological damage (Steiner, 2010).

National Oil Spill Detection and Response Agency (NOSDRA) Act 2006: NOSDRA was set up to detect, monitor, and respond to oil spills (NOSDRA Act, 2006). While the agency has the authority to impose fines and remediation measures, enforcement remains a major challenge due to limited funding, political pressure, and corporate influence (Human Rights Watch, 1999). Many oil spills are left unreported, and affected communities rarely receive adequate compensation or clean-up efforts (Amnesty International, 2009).

Harmful Waste (Special Criminal Provisions) Act 1988: This Act criminalizes the disposal of hazardous waste in Nigeria and imposes penalties for violations (Harmful Waste Act, 1988). However, enforcement mechanisms have proven weak, and compliance rates remain low, especially in oil-producing areas (Frynas, 2000).

NESREA Act 2007: The National Environmental Standards and Regulations Enforcement Agency (NESREA) was established to enforce compliance with environmental standards and guidelines (NESREA Act, 2007). Despite its mandate, NESREA has faced criticism for overlapping roles with NOSDRA, leading to jurisdictional conflicts that prevent effective enforcement (Steiner, 2010).

3.2 Challenges in enforcing these laws

While Nigeria has comprehensive legal frameworks, their enforcement remains highly problematic due to:

Weak Institutional Capacity: Regulatory agencies, such as NOSDRA and NESREA, often lack adequate funding, workforce, and technological resources to monitor and enforce compliance effectively (UNEP, 2011).

Corruption and Political Interference: Legal enforcement is often undermined by corruption, with government officials colluding with oil companies to bypass regulations (Frynas, 2000). Corruption sits at the forefront of the enforcement of laws concerning the environment in Nigeria.

Corporate Influence: Multinational oil companies exploit legal loopholes and avoid liability, making it difficult for communities to hold them accountable for environmental damage (Human Rights Watch, 1999). Some of these laws have not been revised and amended since they were drafted, and a lot of them are outdated and not in line with recent trends, so it presents huge loopholes for the oil companies to evade responsibility for their actions.

Lack of Community Participation: Affected communities are rarely involved in decision-making processes, leaving them marginalized and without legal representation (Amnesty International, 2009). Most of these communities' inhabitants are not often educated or exposed, although they try to make their voices heard, but are often silenced or bribed to keep quiet. Their illiteracy and ignorance are often exploited by the government and the oil companies.

Judicial Delays: Environmental cases often face lengthy court battles, discouraging victims from pursuing legal remedies (Centre for Oil Pollution Watch v NNPC, 2019). Nigeria lacks specialized courts to hear environment issues solely, despite being plagued with numerous environmental problems, and these cases, when filed, have to go through the civil and or criminal courts. Independence of the judiciary is an issue here because of the selection process of the judges of the court done by the government, if the government selects the judges then the judges end up being on the side of the government which is why the cases of environmental degradation filed in Nigerian courts end up without an outcome most of the time.

3.3 Role of the Nigerian government and oil companies in addressing environmental harm

Government's Role: The Nigerian government bears the primary responsibility for enforcing environmental regulations and protection its people from environmental harm, but its over dependence on oil revenues has created a conflict of interest in ensuring the people are protected adequately from these harms to their existence (Okereke, 2017). Urgent reforms are required to strengthen oversight, streamline enforcement, and promote accountability (UNEP, 2011).

Oil Companies' Role: Multinational corporations operating in Nigeria, such as Shell and Chevron, have faced criticism for environmental negligence and poor remediation efforts (Frynas, 2000). There is an urgent need by the government of Nigeria to impose stricter penalties, enforce and impose polluter-pays principles to ensure companies take responsibility for their actions (Steiner, 2010).

4. Nigeria's Climate Change Goals

4.1 Nigeria's commitments under the Paris Agreement and other treaties

Nigeria's Commitments Under International Agreements: Nigeria has pledged to combat climate change by adopting key international agreements, notably the Paris Agreement (2015). Under its Nationally Determined Contributions (NDCs), Nigeria committed to reducing greenhouse gas emissions by 20% by 2030, with the potential to raise this to 45% if supported by international assistance (UNFCCC, 2021). This commitment reflects Nigeria's ambition to transition toward sustainable energy and reduce its dependence on fossil fuels, including oil and gas. However, Nigeria's over dependence on oil revenue, which accounts for about 90% of its foreign reserves, raises questions about the practicality of these climate pledges (BP, 2022). Critics argue that while Nigeria has set ambitious targets, its policies continue to promote oil exploration, contradicting its climate commitments. For instance, the government's push for increased oil production in marginal fields undermines efforts to curb emissions and adopt cleaner energy sources (Amnesty International, 2009). I believe that these pledges by the Nigerian government made regarding cleaner energy are not realistic because other sectors that would have helped the country's GDP and foreign reserves are ignored, and the focus has been on the oil and gas sector. As a developing country Nigeria still needs the income from fossil fuels to hopefully invest in other sectors to generate just as much revenue as the oil and gas sector does for the country and this is further buttressed by the global

crude oil crash in 2015 that has crashed the Nigerian economy and till date since this crude oil price occurred the Nigerian economy is still in disarray and yet to recover.

4.2 How Nigeria's oil policies conflict with climate targets

One of Nigeria's biggest challenges is balancing economic growth with environmental protection. Policies such as the Petroleum Industry Act 2021 were designed to promote investment in oil production while enforcing environmental safeguards (Petroleum Industry Act, 2021). However, implementation has been inconsistent, selective, marred by corruption, and environmental regulations remain poorly enforced, as seen in cases like Oloibiri.

The dependence on oil exports creates a policy conflict, where environmental priorities often take a back seat to economic interests. For example, the Nigeria Gas Flare Commercialisation Programme (NGFCP) was introduced to curb gas flaring, yet flaring remains widespread due to weak enforcement and loopholes in the law (NGFCP, 2018).

4.3 What the Oloibiri case reveals about Nigeria's ability to meet its climate goals

While Nigeria has taken steps to address climate change, including adopting a Climate Change Act (2021) and launching a Renewable Energy Master Plan, progress has been slow. Major challenges are:

Policy Inconsistencies: Contradictory policies that expand fossil fuel activities while promoting renewables makes Nigeria to be seen international as not being realistic.

Funding Constraints: Limited resources for implementing clean energy projects and a lack of international investment in Nigeria.

Lack of Accountability: Weak enforcement mechanisms for climate policies led by corruption.

Community Exclusion: Minimal involvement of local communities in climate governance, especially those directly affected by oil pollution. Lack of education on cleaner energy sources to the Nigerian population at large.

To achieve its climate goals, Nigeria must move from mere policy declarations that its known for to practical actions that prioritize renewable energy and environmental restoration. This includes investing in solar power, hydropower, and wind energy, as well as putting into place legal accountability for oil companies with a Nigerian presence.

5. Lessons and Recommendations

Oloibiri illustrates the urgent need for Nigeria to practically fuse climate action into its development strategies. The neglect faced by this community shows what happens when environmental protection is treated as secondary to economic interests.

Lessons include:

Accountability and Enforcement: Stronger enforcement of environmental laws is critical to protecting both communities and ecosystems.

Transparency in Governance: Policies need to be clear, consistent, and transparent to attract green investments and build public trust.

Community Involvement: Giving local communities a voice in climate policies ensures that solutions are inclusive and sustainable.

5.1 Key lessons from Oloibiri for improving environmental laws

The Oloibiri case highlights several critical lessons about environmental governance in Nigeria and the consequences of weak enforcement in oil-producing areas:

1. **Environmental protection should not be secondary:** The Oloibiri community issue demonstrates how prioritizing economic gains over environmental responsibility leads to irreparable or long-term damage that affects both ecosystems and human health (UNEP, 2011). Neglecting environmental safeguards has left communities vulnerable and economically stagnant.
2. **Accountability is cogent:** The failure to hold oil companies accountable for pollution and environmental degradation has intensified mistrust between the government and affected communities (UNEP, 2011). Oloibiri underscores the need for strict enforcement and amendment of existing laws with regular monitoring to prevent future harm.
3. **Remediation Should Be Mandatory:** Oil exploration activities often conclude without any decommissioning and cleanup obligations, leaving communities like Oloibiri to bear the grave costs (UNEP, 2011). This highlights the importance of enforcing the polluter-pays principle to ensure companies are held financially and legally responsible for remediation efforts. To exemplify, the HYREP remediation in Ogoni land has not achieved a lot till date, but so far, there is no remediation plan for the Oloibiri community in place by the Nigerian government.
4. **Community Involvement Strengthens Outcomes:** The exclusion of local communities from decision-making processes has contributed to the establishment of illegal militant groups, insecurity, social unrest, and distrust. The Oloibiri and Niger Delta issue at large shows that genuine inclusion fosters transparency and helps to build sustainable solutions that address local needs (UNEP, 2011). I believe that the Nigerian government should include the people who are the forefront and who are the direct beneficiaries of these environmental issue in the decision making process and when they do they act on their contributions, for Oloibiri community there is no remediation plan in place for them, the community has been forgotten by the government unlike the Ogoni community where there is a remediation plan due to public outcry but this plan is yet to come to fruition.

5.2 Suggested legal and policy changes to reduce pollution and improve accountability

To prevent future cases like the one in Oloibiri community and support Nigeria's climate goals, the following reforms are recommended:

Strengthening Legal Frameworks: Amend Key Laws, Review and update existing laws, such as the Petroleum Act 1969 (Petroleum Act, 1969) and NOSDRA Act 2006 (NOSDRA Act, 2006), to include specific timelines for remediation efforts and penalties for non-compliance. Introduce Climate-Specific Regulations by developing climate legislation focused on emission reduction targets and transition plans for cleaner energy.

Improving Enforcement Mechanisms: By establishing independent regulatory bodies to monitor oil companies and ensure compliance without political interference. Allocating more resources to agencies like NOSDRA and NESREA to improve technical capacity and field inspections.

Promoting Renewable Energy Alternatives: Investing in Clean Energy by developing largescale renewable energy projects (solar, wind, and hydropower) to reduce dependence on fossil fuels (Okereke, 2017). Higher Tax Incentives for renewables and providing substantial subsidies and tax breaks for investors in clean energy technologies to attract and sustain their investments in Nigeria.

The Nigerian government should make community engagement mandatory during environmental impact assessments and ensure their concerns are integrated into project designs. The government should introduce policies that guarantee economic benefits for local communities, such as revenue-sharing from oil production or

investment in local infrastructure. Holding corporations accountable by enforcing the polluter-pays principle, requiring companies to cover clean-up costs and payout compensation to affected communities.

For Nigeria to prevent future cases like the one in the Oloibiri community and meet its climate targets, the government must prioritize environmental protection without compromising economic growth. This requires merging climate policies with development strategies to ensure economic activities are conducted sustainably, enforcing strict reporting standards for oil companies, and requiring public disclosure of environmental practices, and leveraging on international support for climate financing and technology transfers to support clean energy transitions.

6. Conclusion

Oloibiri community highlights the gaps in Nigeria's environmental laws and climate efforts. The case of Oloibiri serves as an avid reminder of the environmental and socio-economic consequences of continued oil exploration in Nigeria. It highlights the gaps in Nigeria's legal and regulatory frameworks, as well as the failure to enforce environmental protections effectively (Environmental Impact Assessment Act, 1992).

Despite Nigeria's adoption of international climate agreements, such as the Paris Agreement, the continued prioritization of oil exploration undermines the country's ability to meet its climate targets and protect vulnerable communities (NOSDRA Act, 2006).

The lessons from Oloibiri emphasize that economic development cannot come at the expense of environmental sustainability. Nigeria's dependence on fossil fuels has created a policy conflict where economic gains are prioritized over climate commitments (UNFCCC, 2021). As a result, communities like Oloibiri are left to face the long-term consequences of environmental degradation, health risks, and economic hardship. I recommend a call for effective laws, better enforcement of these laws, and commitment to sustainable practices. To address these environmental challenges, Nigeria should strengthen environmental laws, promote renewable energy by investing in clean energy projects, and reduce reliance on fossil fuels to practically fulfil its climate obligations. The Nigerian government should ensure oil companies are held financially and legally responsible for pollution and clean-ups, and pay compensation to affected communities. Incorporating community voices into policy decisions and promotion benefit-sharing agreements should be in place to address economic inequality.

6.1 Importance of addressing oil pollution as part of Nigeria's climate strategy

Meeting Nigeria's climate goals requires more than mere policy declarations; it demands actionable frameworks, legal reforms, and sustained enforcement mechanisms. The polluter-pays principle should be the foundation of Nigeria's environmental policies, ensuring that the burden and consequences of lack of remediation do not fall on vulnerable communities.

To conclude, Oloibiri's legacy must drive a shift toward sustainable practices that balance economic growth with environmental responsibility. Nigeria's ability to protect its environment, fulfil its climate pledges, and promote renewable energy will determine whether it can avoid repeating the mistakes of the past and build a sustainable future for its citizens.

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