



COMPENSATING VESSEL-SOURCE AND PIPELINES OIL POLLUTION TO MITIGATE ENVIRONMENTAL POLLUTION

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ABSTRACT

The paper seeks to investigate if the compensation schemes within the Nigerian oil landscape have the mettle necessary to effectively compensate victims and engage the powerful concerns of multinational oil companies in the country against the backdrop of persistent oil spills. Notably, there is no absence of legislation to prosecute oil spill accidents, judging from the plethora of regimes available to protect and preserve the environment, restore damaged areas and compensate victims of oil spills. However, in view of deficiencies with some of the regimes, and the general apathy of the judiciary to implement the provisions to the letter; the suspicion of collusion between some judicial officials and multinational companies is rife. Thus, the Oil in Navigable Waters Act, 1968 which is based on OILPOL, 1954 will be best served if it were amended to reflect the current dynamics in the oil transportation industry. Moreover, shortcomings within the Petroleum Act, 1969 with regards to oil spill compensation, limitation of liability and sanctions are examined in order to ascertain some of the excesses of oil companies' complacent practices in the country. In addition, the Oil Pipelines Act, 1956 gives room for oil companies to launch the 'sabotage defense' which they have successfully used to win cases against impoverished oil spill victims whose livelihoods have been negatively impacted by years of oil spill and pollution. Moreover, the incorporation of provisions of the African Charter on Human and Peoples' Rights, 1981 (Banjul Convention) into the Nigerian domestic landscape constitutes the generation of legislation which was, hitherto, non-existent, in order to foster environmental safety. Therefore, the paper questions whether the devious practices of some in the judiciary that berefts oil spill victims of their rights to compensation could benefit or harm the environment.

Compensating Vessel-Source and Pipelines Oil Pollution to Mitigate Environmental Pollution

I. Introduction

As Africa's largest producer of crude oil with a production capacity of about 2.53 million barrels per day (bbl/d) as of 2011 estimates, the US EIA believes that Nigeria could well produce more than 3million bbl/d considering its vast oil and gas reserves. The country is estimated to have close to 37.2m barrels of proven oil reserves which are mostly concentrated in the Niger River Delta, the Bight of Bonny, Bight of Benin and the Gulf of Guinea. With its vast oil and gas wealth, the country depends heavily on hydrocarbons for revenue; with up to 95% in export earnings and was dependent for 75% of all government revenue in 2011.¹

Nevertheless, Nigeria's oil industry has been berset by frequent and incessant oil spills emanating from sabotage, operational errors, oil tanker accidents as well as the corrosion of pipelines and oil storage tanks.² Sabotage now accounts for about 60%³ to 28%⁴ or a number closer to one-fifth of all spills in the country.⁵ In all, it is estimated that close to 1.5 million tons of oil has been spilled in the last 50 years in the Niger Delta, polluting most of the land⁶ and it is a potential hazard to human life.⁷ Also, a United Nations Environment Program (UNEP) findings of Ogoniland highlights massive contamination of the region, stipulating it would take 25 -30 years to clean-up the area and cost about \$1billion to carry out those activities in the first five years alone.⁸ The same findings highlighted the fact that in one community- Ogoniland, residents were drinking water contaminated with benzene, a known carcinogen, 900 times the allowable limit by World Health Organization (WHO).⁹ Most especially, there is a marked reluctance to commit any significant resources towards a viable clean-up and remediation of the contaminated environment. Indeed, government's intervention in the remediation of the environment has been marred by over-reliance on the same oil industry to fuel the country's economy, leading to great acquiescence to government's nonchalance to environmental issues.

II. Oil spills in the context of Nigeria.

¹US Energy Information Administration, "Country Report- Nigeria" 2012 available at: <http://www.eia.gov/countries/country-data.cfm?fips=NI> August 2013.

²Peter C. Nwilo and Olusegun T. Badejo, "Impacts and Management of Oil Spill Pollution along the Nigerian Coastal Areas" Available at: https://www.fig.net/pub/figpub/pub36/chapters/chapter_8.pdf August 2013.

³ K.N Aroh, I.U. Obong, C.L. Eze, I.M.Harry. J.C.Umo-Otong and A.E. Gobo, "Oil Spill Incidents and Pipeline Vandalization in Nigeria: Impact on Public Health and Negotiation to attainment of Millennium Development Goal: The Ishiagu example" Disaster Prevention and Management, Vol.19, Issue.1 p.75

⁴Victoria C. Ibezue, "The Effect of Fossil Fuel Extraction on Gokana, Ogoniland, Nigeria" 2nd International Conference on Systems and Technologies, 18-21 Feb. 2013, Cairo, Egypt pp.275-276

⁵ Best Ordihioha and Seiyefa Brisbie, "The Human Health Implications of Crude Oil Spills in the Niger Delta, Nigeria: An Interpretations of Published Results" Nigerian Medical Journal, Vol. 54, Issue. 1, pp.14 2013

⁶Adati Ayuba Kadafa, "Oil Exploration, and Spillage in the Niger Delta of Nigeria" Civil and Environmental Research, Vol.2, No.3, pp.38-41 2012

⁷ Friday Adejoh Ogwu, "Challenges of Oil and Gas Pipeline Network and the role of Physical Planners in Nigeria" Forum E-journal, June 2011, pp.41-45.

⁸Margaret Okorodudu-Fabara, "Country Report: Nigeria Legal Developments, 2009-2011, IUCN Academy of Environmental Law, e-journal, Issue (1). pp.178-179 2012.

⁹ UNEP, "Ogoniland Oil Assessment Reveals Extent of Environmental Contamination and Threats to Human Health" 2011. Available at: <http://www.unep.org/newscentre/default.aspx?DocumentID=2649&ArticleID=8827> September 2013.

With the first commercial crude oil discovered in 1956 in the Oloibiri area,¹⁰ oil pipelines spills, explosions, sabotage as well as other unethical/unorthodox oil production procedures have seen a rampant growth in the region with antecedent results on the coastal communities. Even though there are legislative mechanisms in place to guide and orchestrate worthwhile practices that mitigate oil accidents, the frequency of oil spills in the region is still of grave concern. Varying reports of 6744 spills with 2,369,470 barrels lost in the period 1976-2001¹¹ or lower numbers at 4647 incidents that resulted in 2,369,470 spills from 1976-1996 with an estimated 1,820,410.5 barrels of oil lost to the environment have been compiled and reported.¹² For example, Shell Facados Terminal spilled more than 500,000 barrels in 1978 while Escravos spill amounted to 300,000 barrels in the same year and the 1980 Texaco Funiwa–well 5 incident recorded about 400,000 barrels.¹³ Furthermore, the Nigerian Oil Spill Detection and Response Agency (NOSDRA) recently reported 24,000 spill incidents between 2006 -2010; i.e., an average of 600 events (spills) a year resulting from sabotage, bunkering and infrastructure failure.

Moreover, oil has also been a source of violent and sometimes, catastrophic conflicts in the country, perpetrated by the “Nigerian Armed forces, ethnic and youth militias, armed gangs and their networks, pirates, cultists and robbers,” resulting in daily theft of oil in the region of 100,000 bbl/d estimated at USD2.8 million.¹⁴ Therefore, oil activities have put huge pressures on both the physical environment and its inhabitants, perpetrated by compensation challenges. On the whole, there has been unprecedented number of oil spills in the region with minimal clean-up efforts undertaken by the multinational companies whose oil installations proliferate the region. In all, Nigeria has the highest number of oil spill incidents in the world.¹⁵

Thus, the pressures put on the environment as a result of oil accidents are especially glaring in the Nigeria Delta region where the United Nations Environment Program (UNEP) has embarked on a massive venture with the Nigerian government to develop plans to clean-up the region damaged by many decades of wanton oil practices by multinational oil companies. These practices have been characterized as “abysmal oilfield practices characterized by, among other things, hazardous seismographic operations, poor installation and maintenance of pipelines... and regular blowouts.”¹⁶ Worst of all, abhorrent procedures that reflect utter disregard for damage caused to people and their property is considered standard procedure in the Niger Delta.¹⁷ It is estimated that the environment has now been heavily damaged, with mangroves, water courses, fish and other valuable ecosystems destroyed by years of pollution. Thus, recent estimates indicate that it will take 25-

¹⁰ Innocent Miebaka Aprioku, “Collective Response to Oil Spill Hazards in the Eastern Niger Delta of Nigeria” *Journal of Environmental Planning and Management*, 42(3), pp. 391-396 1999

¹¹ Francis P. Udoudoh, “Oil Spillage and Management Problems in the Niger Delta, Nigeria” *Journal of Environmental Management and Safety*, Vol.2, No.3 2011

¹² Peter C. Nwilo and Olusegun T. Badejo, “Impacts and Management of Oil Spill Pollution along the Nigerian Coastal Areas”. Available at: https://www.fig.net/pub/figpub/pub36/chapters/chapter_8.pdf August 2013.

¹³ *This Day*, “Who takes the blame for oil pollution in the Niger Delta” 5 February 2013, available at: <http://www.thisdaylive.com/articles/who-takes-the-blame-for-oil-pollution-in-the-niger-delta> September 2013.

¹⁴ Augustine Ikelegbe, “The Economy of Conflict in the Oil Rich Niger Delta Region of Nigeria” *Nordic Journal of African Studies* 14(2) pp.208 2005

¹⁵ *Ibid*

¹⁶ Lauren McCaskill, In Chidi Anselm Odinkalu, “The Impact of economic and Social Rights in Nigeria: an assessment of the Legal Framework for Implementing Education and Health as Human Rights, in *Courting Social Justice* 183, 200 (Varun Gauri & Daniel M. Brinks, eds. 2008)

¹⁷ Lauren McCaskill, “When Oil Attacks: Litigation Options for Nigerian Plaintiffs in U.S Federal Courts” *Health Matrix*, Vol.22 pp.537 2013

30 years to clean-up the Delta region and cost \$1billion just for the first five years alone.¹⁸ Therefore, compensating victims of these spills is critical in the remediation of the affected areas.

III. Compensation regimes in Nigeria for oil spills

With over 4784 oil spills between 1976-1996 environmental concerns have failed to attract the judicious attention of responsible bodies like the Department of Petroleum Resources (DPR), the Nigerian National Petroleum Corporation NNPC (both government agencies with multiple functions), or the judiciary. Moreover, extant legislation fails to adequately capture the essence of victim's compensation as well as environmental protection, at a level commensurate to the extent of damage caused by oil accidents. In terms of the judicial dimension, their verdicts and sometimes, nonchalance, fuels suspicions of collusion with multinational oil companies to the detriment of both oil spill victims' compensation and remediation of the environment. Therefore, compensation for victims of spills are guaranteed by existing legislation including, Oil in Navigable Waters Act 1968, Oil Pipelines Act 1956, Petroleum Act 1969, the African Charter on Peoples' Rights 1981 and enshrined into law by the Federal Constitution of 1999. Thus, compensation of victims is enshrined and protected by existing legislation of the country.

a) Oil in Navigable Waters Act 1968, CAP 337¹⁹

This legislation is a transposition or reflection of the International Convention on the Prevention of Pollution of the Sea by oil (OILPOL) 1954 into Nigerian domestic arena. This is crucial because the legislation adopts most of the provisions of the international convention guaranteeing the protection of the environment through oil transportation activities emanating from vessels. However, the convention is now superseded by the International Convention for the Prevention of Pollution by Ships MARPOL 1973/78, which provides more protection of victims' rights. Thus, the Oil in Navigable Waters Act contains specific provisions for culpability necessary to redress environmental pollution.²⁰ However, the porosity of the legislation in Nigeria is evident in a couple of key areas:

i. Penalties and fines

The discharge of prohibited oils by Nigerian owned ships and masters is punishable by a fine not more than N2000 by a Magistrate's court or vessel seizure and sale imposed by a High Court. Also, the offender will be charged with an unspecified amount in the event of oil pollution of the territorial waters, inland waters and navigable waters; either from a Nigerian owned vessel or from any apparatus used in transferring oil, with the party undertaking clean-up activities entitled to reasonable compensation to cover all or part of their costs from the offender when so found guilty by the courts. It also addresses issues related to pollution, vessel equipment, record keeping and incident reporting; with various penalties and fines for infractions. Nevertheless, the regime fails to address issues related to environmental remediation which is critical whenever there is an oil spill nor does it set adequate guidelines on penalties for environmental damage.

In addition:

ii. Limitation of defense

Unfortunately, the Oil in Navigable Waters Act 1968 has a porous defense mandate and this gives room for a

¹⁸ Margaret Okorodudu-Fabara, "Country Report: Nigeria Legal Developments, 2009-2011" IUCN Academy of Environmental Law, ejournal, Issue (1). pp.178-179 2012

¹⁹ Oil in Navigable Waters Act 1956.

²⁰ Charles Mwalimu, "The Nigerian Legal System" Volume: 2. Private Law, Peter Lang Publishing Inc. pp.94-96 2009

plethora of defenses to be mounted by perpetrators of oil spill.

1. The culprit can prove that the discharge was undertaken for the purpose of securing the vessel
2. Prevention of damage to the vessel
3. To save life

Exceptions to the statutory defenses

1. Accidental escape or leakage of oil as a result of damage to the vessel
2. All efforts were made to reduce the oil discharge and mitigate its impact on the environment.
3. The discharge was caused by a third party acting without their consent
4. Oil contained from an effluent in refining activities, with practically nothing to do but release the effluent and all steps were taken to mitigate its impact.
5. The discharge occurred as a result of wreck removal, disposal of a distressed vessel, obstruction of navigation and all reasonable steps were taken to avoid its impact²¹

Therefore, the Oil in Navigable Waters legislation fails to provide adequate protection to victims of oil accidents considering the limitation of penalties and fines, as well as the type of defenses that could be presented by the perpetrators of oil pollution. Thus, oil spill perpetrators can use any number of limitations and exceptions in the legislation to avoid compensating victims. The Oil in Navigable Waters Act 1968 based on OIL-POL 1954-1962 will be best served if it were amended to reflect the current dynamics in the oil transportation industry rather than providing escape routes to perpetrators of oil accidents whose activity pollute the environment, leaving victims to clean their own environment.

b) Petroleum Act 1969: Petroleum (Drilling and Production) Regulations

The legislation is lapse on the question of compensation for victims of oil spills. Thus, Regulation 25 of the Petroleum (Drilling and Production) Regulations stipulates:

The licensee or lessee shall adopt all practicable precautions, including the provision of up-to-date equipment...to prevent the pollution of inland waters, rivers, watercourses, the territorial waters of Nigeria or the high seas by oil...and where any such pollution occurs or has occurred, shall take prompt steps to control and, if possible, end it.²²

In spite of the provisions in the statute, the application of remedial and restoration activities in the affected areas in the country is still lagging behind. The general tendency is to award victims' compensation for immediate losses and damage suffered without factoring in environmental remediation and long-term restoration endeavors. The extent of the damage already caused to the environment following half a century of oil exploration is captured by the UNEP report which noted it would take between 20-30 years to clean the contaminated areas of Ogoniland.²³

Moreover, the lack of compensation guidelines in the legislation further compounds the need for fair and adequate compensation to be awarded to victims of oil spill. It is therefore incumbent for judges to use their discretion in the award of compensation to victims. Thus, in using his discretion in *R.Mon & anor v. Shell BP*, there was recognition of damage to the plaintiff's fishpond as a result of oil spill from the defendant's

²¹Oil in Navigable Waters Act, 1968

²² Petroleum Act (1990)Cap.350(Nigeria) available at: <http://www.nigeria-law.org/petroleum%act.htm>
November 2013

²³UNEP, "Ogoniland Oil Assessment Reveals Extent of Environmental Contamination and Threats to Human Health" 2011. Available at: <http://www.unep.org/newscentre/default.aspx?DocumentID=2649&ArticleID=8827>
September 2013.

activities. However, with respect of the plaintiff's failure to provide receipts to the court, the judge stated:

“There is no evidence what it would cost them or what it would have cost them had they to pay for it to be dug... They cannot be bothered to tell me how much this job was worth then they must be satisfied with my attempt to assess it fairly. I will therefore assess the damages at a figure which I consider to be fair, and if the plaintiff considers it inadequate, they have nobody to blame but themselves.”

The final judgment in favor of the plaintiff for his damaged fishpond by oil activities was N200.²⁴ This condescension by the judiciary fuels suspicion of lack of sympathy for victims and complete disregard for environmental protection. Thus, protection of the environment, reflected in this judgment indicates that is not a high priority for some legal practitioners.

c) Oil Pipelines Act 1956

The overall character of the legislation sets out to hold oil companies or polluters to account as exemplified by Section 20(1) “the court shall award such compensation as it considers just in respect of any damage done to any buildings... by the holder of the permit in the exercise of his rights thereunder...”²⁵ However, just like most oil compensation regimes in Nigeria, the Oil Pipelines Act is watered down by Section 11(5)(c) with the clause absolving oil companies of responsibility for compensation when a spill is caused by the aggrieved or by the malicious act of an unknown third party.²⁶ The holder of a licence shall pay compensation:

- (c) to any person suffering damage (other than on account of his own default or on account of the malicious act of a third person) as a consequence of any breakage of or leakage from the pipeline or an ancillary installation, for any such damage not otherwise made good.²⁷

Therefore, the Oil Pipelines Act 1956 gives room for oil companies to launch the ‘sabotage defense’ which they have successfully used to win cases against impoverished oil spill victims whose livelihood has been negatively impacted by years of oil spill and pollution. The use of the “sabotage defense” has been manifestly used by oil companies, to good measure, from taking responsibility of either compensating victims or cleaning-up the environment. They claim the spill or accident was caused by sabotage of their pipelines by an unknown third party, therefore, they cannot be held liable for any compensation.

d) African Charter on Human and Peoples' Rights

The incorporation of provisions of the **African Charter on Human and Peoples' Rights (Banjul Convention 1981)** into the Nigerian domestic landscape constitutes the generation of legislation which was, hitherto, non-existent in order to foster environmental safety.

e) The Petroleum Industry Bill, 2012 or the Nigerian Oil and Gas Policy

Although the Petroleum Industry Bill, 2012 has been lauded by most oil industry stakeholders including, the US Energy Information Administration,²⁸ the legislation has stalled in parliament because of conflicting in-

²⁴Damfebo K. Derri, “Litigation Problems in Compensation Claims for Oil and Gas Operations in Nigeria” IN Law and Petroleum Industry in Nigeria: Current Challenges, (Festus Emiri and Gowon Dienduomo ed., 2009), pp.19

²⁵ *Ibid*

²⁶ Ignatius Adeh, “Corruption and Environmental Law: The Case of the Niger Delta” African Politics Vol.2, Transaction Publishers, pp. 63-66 2010

²⁷ Oil Pipelines Act, (1990) Cap. 338 (Nigeria) available at: <http://www.nigerialaw.org/Oil%20Pipelines%20Act.htm> September 2013

²⁸ US Energy Information Administration, “Country Data” 10/06/2012 available at: <http://www.eia.gov/countries/country->

terests. In fact, as Kassim-Momudu indicates, the new bill is set to repeal most of the provisions of the Petroleum Act, CAP P10 LFN 2004 which they agree is obsolete. In this regard, with firm provisions on transparency in the current legislation, Pedro Van Meurs affirms Nigeria's commitment to the democratisation of the country's oil and gas industry and puts the country's commitment to improved legislation on par with the best systems in the world.²⁹ This view is, however, not shared by Sayne who highlights shortcomings of the legislation. Amongst the fiercest issues of contention for these authors is that the legislation lacks a clear cut mandate on commercialisation, shortcomings on transparency in NPAMC (National Petroleum Asset Management Company) and NGC (National Gas Company) which are not subject to contract-disclosure requirements, absence of auditing of the above named, lack of clear prevention of political interference in the (National Oil Company) NOC's decisions and affairs.³⁰ Their view is substantiated by Omano who indicate that the Nigerian Petroleum Industry Bill 2012 in its present format leans heavily on the side of the petroleum industry with a 64% stake in the bill, while only 2% favors the Nigerian people and oil producers in Nigeria will realize an overall decline of their interest by -16%.³¹ In essence the regime fails to address compensation and environmental protection concerns.

IV. Compensating victims to remediate the environment

Compensation for oil spills is a statutory provision as indicated in Section 11 5(a) (b) (c) of the Oil Pipelines Act 1956, and there is further protection for victims in Oil in Navigable Waters Act 1968 and Petroleum (Drilling and Production) legislation 1969. Moreover, the 1999 Constitution provides for the inalienable right to a safe and healthy environment. Thus, the compensation purview, inferred from paragraph 36 of Schedule 1 of the Petroleum Act and Regulation 23/25 of the Petroleum (Drilling and Production) Regulations extend to "economic or commercial trees, fixed structures, fishing rights, shrines and venerable subjects," along with personal injuries, disturbance of claimant's surface rights and a fair and adequate compensation.³² Compensation can be achieved through several different sources.

a) Using the Court System

The crucial role played by the judiciary in impacting societal affairs cannot be understated. Hence, a complacent judiciary plunges the system into a quagmire or quandary. Indeed, previous judicial attitudes and outcomes leaned heavily on the side of oil polluters than their victims as espoused by Ebeku through judges' interests in relegating environmental concerns to secondary position over the nation's principal source of income.³³ The sentiment of the judiciary is captured quite vividly in *Allar Irou v. Shell BP Development Company* (Nigeria) Ltd., where the plaintiff had requested an injunction on the defendant to stop their production activities since it was affecting the plaintiff adversely. However, the judge stated that:

“ to grant the injunction would amount to asking the defendant to stop

[data.cfm?fips=NI](#) August 2013.

²⁹Pedro Van Meurs, "Nigeria Petroleum Industry Bill- 2012, Ernst and Young 2012" Available at: [http://www.ey.com/Publication/vwLUAssets/Nigeria_Petroleum_Industry_Bill_%E2%80%942012/\\$FILE/Nigeria_Petroleum_Industry_Bill_26Oct12_lowres.pdf](http://www.ey.com/Publication/vwLUAssets/Nigeria_Petroleum_Industry_Bill_%E2%80%942012/$FILE/Nigeria_Petroleum_Industry_Bill_26Oct12_lowres.pdf) August 12 2013

³⁰Aaron Sayne, Paasha Mahdavi, Patrick R., P Heller and Johannes Schreuder, Revenue Watch Institute, October 2012, available at: www.revenuewatch.org August 2012.

³¹Omano Edigheji, Nasir El-Rufai, Ola Busari and Jonathan Moses, "In the National Interest: A Critical Review of the Petroleum Industry Bill 2012" Centre for Africa's Progress and Prosperity pp.13 2013

³²Oladiran Akinsola Ayodele, "Civil Liability for oil Pollution Under Nigerian Law". NIALS Journal of Law and Public Policy pp. 322-324

³³ Kaniye S. A. Ebeku, "Judicial Attitudes to Oil-Related Environmental Damage in Nigeria" RECEIL.12 (2), pp.202 2003

operating in the area... and cause the stoppage of a trade... mineral which is the main source of the country's revenue".³⁴

The judge's decision to defer the imposition of judicial injunction disregarded the victim's right to the peaceful enjoyment of his property, since that would have infringed on the defendant's production of oil; which is a source of national revenue, in spite of the impact of defendant's activity on the plaintiff's wellbeing. This approach sometimes leads to judgment that would compromise environmental protection rather than stake the nation's economic life-wire. In fact, the compensation of victims is disregarded and the preservation of the nation's income source is given precedent over personal and individual grievance.

Moreover, considering the fact that some judges' decisions on oil spill compensation fails to follow statutory guidelines, awards have also tended to fail to give consent to exemplary awards since oil revenue fuels the country's economy.³⁵ Successful award for compensation of victims of oil accidents have been very few, and in cases where victims have been successful in their suit, the compensation has been exceedingly minimal. In all, there is a systematic docile drive towards inflicting compensation boundaries high enough that could impel the oil companies to be more responsible. In his discretion in *R.Mon & Anor v. Shell BP* (1970-72), there was recognition of damage to the plaintiff's fishpond as a result of oil spill from the defendant's activities. In respect of the plaintiff's failure to provide receipts to the court, the judge stated:

"There is no evidence what it would cost them or what it would have cost them had they to pay for it to be dug... They cannot be bothered to tell me how much this job was worth then they must be satisfied with my attempt to assess it fairly. I will therefore assess the damages at a figure which I consider to be fair, and if the plaintiff considers it inadequate, they have nobody to blame but themselves."

The final judgment in favor of the plaintiff for his damaged fishpond by oil activities was N200.³⁶ This condescension by the judiciary fuels suspicion of lack of concern for victims and the environment. Judicial decisions have not been based based on the judge's discretion of common law principles since there are no penalty guidelines in the legislation.³⁷ In all, the level of compensation has been miniscule compared to the Exxon Valdez incident which resulted in billions of dollars being paid, unlike in Nigeria, where until 1997, the highest amount paid for oil spill compensation was \$275,000.³⁸ What is more, with the Gulf of Mexico situation in 2010, BP paid 9000 of the 23,000 claims within six weeks when they were filed and set up a \$20 billion trust fund to assure the US public and government of its commitment to pay claims, litigation settlements, state and local responses costs and claims and natural resources damages and related costs.³⁹ Compensation

³⁴Muhammed Tawfiq Ladan, "Judicial Approach to Environmental Litigation in Nigeria" Paper Presented at a 4-day Judicial Training Workshop on Environmental Law in Nigeria organized by The National Judicial Institute, Abuja 2007, February 2007, pp. 32-36.

³⁵ Kaniye S.A.Ebeku 2003 *Supra* 33

³⁶Damfebo K. Derri, "Litigation Problems in Compensation Claims for Oil and Gas Operations in Nigeria" In *Law and Petroleum Industry in Nigeria: Current Challenges*, (Festus Emiri and Gowon Dienduomo eds., 2009), pp.19 2009

³⁷ Simon Warikiyei Amaduobogha, "Environmental Regulation of Foreign Direct Investment(FDI) in the Oil and Gas Sector" In *Laws and Petroleum Industry in Nigeria: Current Challenges Essays*, eds Festus Emiri and Gowon Dienduomo. Malthouse Press Limited, pp.120. 2009

³⁸Lauren McCaskill When Oil Attacks: Litigation Options for Nigerian Plaintiffs in U.S Federal Courts. *Health Matrix*, 2013, Vol.22.537 pp.566

³⁹ BP. *Compensating People and Communities Affected*. 2013 Available at: <http://www.bp.com/en/global/corporate/gulf-of-mexico-restoration/claims-information.html> September 17 2013

of this type guarantees that the environment is remediated in good time, not the 25-30 year timeline envisaged by the UNEP cleanup program in Nigeria.

In addition, the ability of the country's judiciary to demand accountability from oil company bosses has been quizzed due to impassioned coziness/comity between some susceptible officials and oil executives. This is demonstrated by apathy and lethargy by some judges to apply the law to the letter as a result of interests peddling or outside pressure. Consequently, in the application of rulings, some have exhibited a clannish attitude towards multinational oil companies. Even more so, judges' offices have been rumoured to be ill-equipped, fuelling criticism of corruption and bribe-taking to procure stationery. Judges are said to be poorly remunerated, leading to suspicion of susceptibility to corruption and bribery.⁴⁰ What is more, in the present world of information super highway, most judiciary still depend on rudimentary practices, including handwriting, instead of verbatim devices, which woefully results in lost documents and momentous delay in the legal process for compensation and environmental protection. Therefore, the mitigation of environmental damage from spills cannot be guaranteed when oil companies still enjoy a great deal of coziness with the judiciary and are protected from judiciously undertaking oil activities. These oil practices have been described as "abysmal oilfield practices characterized by, among other things, hazardous seismographic operations, poor installation and maintenance of pipelines... and regular blowouts."⁴¹ Worst of all, the gross indifference to the people and their property, something which is unimaginable in the United States, is considered as part of the cost of doing business in the Niger Delta.⁴²

I. Conclusion

In order to mitigate the incessant and frequent oil spills that pollute the environment, the judiciary must participate actively, putting aside the focus of prioritizing the interests of oil companies and oil revenue to run the national economy. Moreover, the need to address the use of up-to-date data in compensating victims and protect the environment is critical in standardizing compensation for oil spills. Most especially, the spurious litigation by some citizens who conflagrate the already existing mayhem in the oil industry does little to win sympathy for legitimate claims.

⁴⁰ Lauren McCaskill at 560 quoting Okechukwu Oko "Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of the Judiciary in Nigeria" 31 Brook J. Int. Law 9,14 2005

⁴¹ Lauren McCaskill p. 551 in Chidi Anselm Odinkalu The Impact of economic and Social Rights in Nigeria: an assessment of the Legal Framework for Implementing Education and Health as Human Rights, in *Courting Social Justice* 183, 200 (Varun Gauri & Daniel M. Brinks, eds. 2008)

⁴² Lauren McCaskill. When Oil Attacks: Litigation options for Nigerian Plaintiffs in U.S. federal Courts .Health: Journal of Law-Medicine Matrix, Vol.22,pp.537 2012

- [1] US Energy Information Administration, "Country Report- Nigeria" 2012 available at: <http://www.eia.gov/countries/country-data.cfm?fips=NI> August 2013.
- [2] Peter C. Nwilo and Olusegun T. Badejo, "Impacts and Management of Oil Spill Pollution along the Nigerian Coastal Areas" Available at: https://www.fig.net/pub/figpub/pub36/chapters/chapter_8.pdf August 2013.
- [3] K.N Aroh, I.U. Obong, C.L. Eze, I.M. Harry. J.C. Umo-Otong and A.E. Gobo, "Oil Spill Incidents and Pipeline Vandalization in Nigeria: Impact on Public Health and Negotiation to attainment of Millennium Development Goal: The Ishiagu example" Disaster Prevention and Management, Vol.19, Issue.1 pp.75
- [4] Victoria C. Ibezue, "The Effect of Fossil Fuel Extraction on Gokana, Ogoniland, Nigeria" 2nd International Conference on Systems and Technologies, 18-21 Feb. 2013, Cairo, Egypt pp.275-276
- [5] Best Ordihioha and Seiyefa Brisbie, "The Human Health Implications of Crude Oil Spills in the Niger Delta, Nigeria: An Interpretations of Published Results" Nigerian Medical Journal, Vol. 54, Issue. 1, pp.14 2013
- [6] Adati Ayuba Kadafa, "Oil Exploration, and Spillage in the Niger Delta of Nigeria" Civil and Environmental Research, Vol.2, No.3, pp.38-41 2012
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- [8] Margaret Okorodudu-Fabara, "Country Report: Nigeria Legal Developments, 2009-2011, IUCN Academy of Environmental Law, e-journal, Issue (1). pp.178-179 2012.
- [9] UNEP, "Ogoniland Oil Assessment Reveals Extent of Environmental Contamination and Threats to Human Health" 2011. Available at: <http://www.unep.org/newscentre/default.aspx?DocumentID=2649&ArticleID=8827> September 2013.
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