



AN EXAMINATION OF THE ENVIRONMENTAL RIGHTS AND SUSTAINABILITY IN NIGERIA**

Abstract

The aim of this paper is to make a legal examination of environmental rights and sustainability in Nigeria. The paper adopts doctrinal method of legal research as it draws data and information from statutes, judicial precedents, conventions and other literatures. The paper finds that environmental rights encompass the right to a clean and healthy environment, and the right to seek redress in the case of a breach of environmental rights. The paper observes that the challenge has been the respect of the rights by individuals and corporate bodies and restriction on enforcement of the rights on the ground of *locus standi*. This paper also finds that environmental sustainability as well as environmental impact assessment enhances the protection of environmental rights as the rights are more protected where environmental sustainability principles guide the actions and decisions of individuals and corporate entities. Furthermore, the paper finds that the United Nations Global Compact and Global Reporting Initiatives have also played a significant role in promoting environmental sustainability. Though environmental right and sustainability is recognised under the Nigerian Constitution, the right is not justiciable; unlike other countries like South Africa and Kenya that incorporate same in their Constitutions. This study recommends inter alia that parties that wish to enforce environmental right in Nigeria should rely on the African Charter on Human and Peoples' Rights which has been domesticated and ratified in Nigeria. This study contributes to knowledge and practice as stakeholders and policymakers may rely on its findings to take strategic policy actions on environmental rights and sustainability in Nigeria.

Keywords: Environmental rights, Sustainability, Environment, Policies, Nigeria

1. Introduction

Environmental laws are a body of laws that control and prevent specific activities of man that could impose certain effects on the environment to protect it.¹ Nigerian environmental laws consist of a set of rules and regulations that protect the environment from harm and degradation as well as ensure its preservation and protection for generations to come.² This suggests that the environmental laws are intended to promote environmental rights and sustainability in the country. Nigeria has created environmental laws to monitor human and industrial activity that significantly affects the environment, control environmental harm and pollution. The laws also establish processes for preserving the environment, its inherent resources and promote environmental sustainability.³ National and international environmental policies have been instrumental to turning legal avenues for environmental protection into laws and regulations.⁴

Generally, the term 'environment' is defined as "all living things that are found there, including plants, animals, and people, as well as any connections that may exist between

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¹ Webster's New World Law Dictionary. (New Jersey: Wiley Publishing, Inc., Hoboken, 2010).

² W O Adebayo, A O Jegede & J A Ogundele, Environmental laws in Nigeria: Negligence and compliance on road transportation land use planning in the South-south Geo- Political Zone, [2015], 13(3), *Donnish Journal of Law and Conflict Resolution*, 18-28.

³ CA. Omaka, "Imperativeness of Insertion of Environmental Rights as a Fundamental Right in the Constitution of the Federal Republic of Nigeria, [2013], 1 *ESUJ*, p. 158

⁴ WO, Adebayo et al. *Op. Cit.* p. 24.



these elements".⁵ This idea illustrates how human activities and other nuances affect Nigeria's environment. The Nigerian Constitution is widely regarded as the grundnorm. It delineates the boundaries the government can work within when formulating laws and policies to preserve the environment. Nigeria has adopted several legislative measures⁶ to conserve the environment. The country's environmental objectives are evidenced in Section 20 of the Constitution.⁷ These objectives include "protecting and improving the environment, as well as safeguarding the water, air, land, forest, and wildlife."⁸ The protection of the environment consists of laws that regulate compliance with environmental standards and implement the nation's environmental policy. Many laws regulate environmental rights and sustainability in Nigeria. The most referred pioneer law in this aspect is the Criminal Code Act.⁹ Specifically, the Code forbids certain acts, such as contamination of water sources or causing environmental pollution that endangers public health.¹⁰

While some scholars have argued that environmental rights are emerging rights, environmental rights have long existed in Nigeria.¹¹ However, the issue has been the respect and enforcement of the rights by constituted authorities.¹²

Additionally, environmental sustainability tends to enhance the protection of environmental rights. However, the extent to which environmental rights and sustainability are respected and enforced in any jurisdiction depends significantly on the legal protection in such jurisdiction.¹³ Based on the foregoing, this paper conducts a legal examination of environmental rights and sustainability in Nigeria.

2. Environmental Rights in Nigeria

Unquestionably, the Constitution of Nigeria, as the apex statute of the State, determines the legal existence and standing of all other laws.¹⁴ This is spelt out in s. 1(1).¹⁵ From the section mentioned above, the Constitution is paramount and supreme, and the provisions of the Constitution shall bind all other laws and authorities applicable within the country. S. 1(3)¹⁶ further added that if any legislation contradicts the provisions of the Constitution, the latter will supersede, and the conflicting law will be null and void to the extent of its inconsistencies. *Inter alia*, the Supreme Court held in *Abacha v Fawehinmi*¹⁷ that the

⁵ s. 37 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, CAP 164 LFN 2007

⁶ Environmental Impact Assessment Act, National Environmental Standards and Regulations Enforcement agency Act 2007 (NESREA); National oil spill detention and response agency (NOSDRA) Act 2006.

⁷ Constitution of the Federal Republic of Nigeria (As Amended), 1999. (CFRN)

⁸ S. 20 *ibid*

⁹ Criminal Code Act, CAP C38 Laws of the Federation of Nigeria (LFN), 2004

¹⁰ *Ibid*

¹¹ CA Omaka. *Municipal and International Environmental Law*, (Lagos: Telka, 2012), 144-178

¹² *Ibid*

¹³ AB Abdulkadir, & AO Sambo, "Human Rights and Environmental Protection: The Nigerian Constitution Examined" (2009) 6(1) *Journal of Food, Drug and Health Law*, 61, 73

¹⁴ E Malemi. *The Nigerian Constitutional Law*. (Lagos: Princeton Publishing Company, 2012), 78-101.

¹⁵ CFRN (n7)

¹⁶ *ibid*

¹⁷ (2001) 51 WRN 29.



Constitution is supreme. Thus, "We must orient ourselves properly. The grundnorm, or ultimate law of the land, is the Constitution... its superiority has never been questioned."¹⁸

As we advance, it is imperative to determine if the 1999 Constitution protects the rights to a safe, habitable and healthy environment. This entails that the paper will considerably evaluate some of the relevant aspects of the Constitution. Some of these relevant sections are ss—13, 17, and 20 of the 1999 Constitution of Nigeria.

S. 13¹⁹ provides that to guarantee that the “freedom, equality, and justice” pillars of the state are upheld, all arms of government have an obligation and responsibility to comply with, observe, and implement the provisions of this chapter of the 1999 constitution.²⁰ Here, the Constitution forbids the "exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community."²¹

According to the aforementioned clauses, the Nigerian government must always take the required safety measures and steps to protect citizens' rights. This has to be evident in any policy created to exploit the nation's environmental resources. *Inter alia*, these actions should involve preventing environmental hazards that pose a threat to life or property. They also include offering relief supplies as well as financial compensation to individuals who have experienced environmental harm due to the government's overuse of natural resources.

As to s. 20,²² The State is responsible for protecting and enhancing the environment, as well as for “the land, water, air, forest, and wildlife of Nigeria”. According to s. 6 (6) (c)²³, it is required that:

The judicial powers vested in accordance with the foregoing provisions of this Section shall not, except as otherwise provided by this constitution, extend to any issue or question concerning the conformity of laws or judicial decisions with the Fundamental Objectives and Directive principles of State Policy set forth in Chapter II of this constitution, or regarding the act or omission of any authority or person.

Plainly said, the law, as stated in Chapter II²⁴ is intended to serve as a yardstick/manual for the government's arms as they carry out their responsibilities of governance and nation-building.²⁵ As a result of the provision as mentioned above, the Chapter II²⁶ is not subject to any legal challenge as it is not justiciable.²⁷

¹⁸ See *A.G. Abia State v A.G. Federation* (2003) 6 NWLR (PT 763) 264 AT 497, See also *Erekanure V. State* (1993) 5 NWLR (PT. 294) 390 AT 393., See *Osaba v Governor, Kwara State* (1994) 4NWLR (PT. 284) 31 at 39.

¹⁹CFRN (n7).

²⁰ The chapter in reference is Chapter II of the 1999 Constitution of the Federal Republic of Nigeria (As Amended).

²¹ S. 13 CFRN (n7)

²² CFRN (n7)

²³ Ibid.

²⁴ Ibid.

²⁵ B.O. Nwabueze “Fundamental objectives and Directive Principles of State Policy. Its nature and functions” in the Great Debate- Nigerian viewpoints on the Draft constitution (Lagos: Daily Times, 1977), 49.

²⁶ Which provides the fundamental objectives and directive principles of State policy.

²⁷ T. Okonkwo. *International Protection of the Environment: Law and Practice*. (Lagos: Fine Finishing Limited 2014); See *Okogie v. A.G. of Lagos state* (1980) FNR 445/(1981) 1 N.C.L.R. 218.



Therefore, in the framework of Chapter II,²⁸ s.20²⁹ does not grant or expressly confer a right on anyone to enforce a right to an environment that is healthy, safe, habitable and clean. Nonetheless, the provisions³⁰ serve as the foundation for the government's ability to exercise its authority over the matters contained in Chapter II and may determine any actions thereof.³¹ Additionally, the courts have in clear terms interpreted the provisions of Chapter II³² as being non-justiciable. For instance, Segun³³ ruled in *Morebishe v. Lagos State House of Assembly*³⁴ that the Chapter II provisions are non-justiciable.

Conversely, Chapter IV of the Constitution³⁵ is justiciable. Here, s. 33 (1)³⁶ declares that "Every person has a right to life and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria."³⁷ The said provision does not have any direct connection to the rights under Chapter II.³⁸ However, it is arguable that where the right to live in a healthy, clean and safe environment is violated, it can put one's life in danger, thus violating the justiciable right to life.³⁹ Judge Bhagwati's opinions in the *Minerva Mills Ltd. v Union of India*⁴⁰ have highlighted the need for second-generation human rights⁴¹ to be given the attention and legal standing they deserve. The right to life is meaningless for someone who lives in an unprotected and unhealthy environment.

As stated above, citizens' rights to a habitable, safe, and healthy environment are known as environmental rights. They also include the power to hold the government or other national entities responsible for any violations of these rights.⁴² This right seems to be dual, consisting of the right to live in a safe, healthy and habitable environment that protects citizens' lives and promotes good health. It also includes the right to legal recourse if there is a breach or violation of these rights. These two limbs of the rights will be considered below.

3. Right to a Clean and Healthy Environment

Though the right to a clean and healthy environment has long been known, the objectives of Chapter II of the Constitution and the provisions contained within it do not give the right its needed status.⁴³ Chapter II functions as "fundamental objectives and directive principles of state policy." It directs the government in matters pertaining to preservation, management,

²⁸ CFRN (n7)

²⁹ Ibid.

³⁰ Chapter II, CFRN.

³¹ *Adamu v. A.G. of Borno State & ors* (1996) 8 NWLR (Pt. 465) at 203; See also *A.G. Ondo State v. A.G. Federation* (2002) FWLR (PT 111) 1972.

³² Ibid.

³³ Justice of the Lagos State High Court as he then was.

³⁴ (2000) 3 WRN 134

³⁵ CFRN.

³⁶ Ibid See chapter IV.

³⁷ See s. 33(1) *ibid*.

³⁸ CFRN (n7)

³⁹ *Ransome Kuti v. A.G. Federation* (2001) FWLR (PT 80) 1637.

⁴⁰ AIR 1980 SC.

⁴¹ Environmental rights.

⁴² O Awolowo, "Environmental Rights and Sustainable Development in Nigeria" [2017], 22(3), *OIDA International Journal of Sustainable Development*, p. 18.

⁴³ Awolowo (n42).



conservation, and protection of the State's natural resources and environment.⁴⁴ Simply put, these provisions serve only as recommendations for the government when creating environmental regulations, not as a grant of rights to any individual.⁴⁵ The Constitution⁴⁶ does not expressly guarantee a defined right to a safe, healthy and habitable environment.⁴⁷ However, this right can be inferred or construed from a combined reading of sections 13, 17(1)(d), and 20 in Chapter II of the Constitution and ideally in conjunction with s. 33(1).⁴⁸

On the contrary, s. 6(6)(c)⁴⁹ states that,

except as otherwise provided by this Constitution, the judicial powers vested in accordance with the foregoing provisions of this section shall not extend to any issue or question as to whether any act or omission by any authority or person as to whether any law or any judicial decision conforms with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of the Constitution.⁵⁰

The provision of s. 6(6)(c)⁵¹ has the effect of making ss. 17(1)(d) and 20⁵² non-justiciable in any Nigerian court of law. The implication is that no entity or person may use these provisions as the ground for any litigation alleging that its environmental rights under the Constitution have been violated.

As already mentioned, the court held in *Morebishe v Lagos State House of Assembly*,⁵³ that the provisions of Chapter II⁵⁴ are not subject to legal action. But they continue to serve as important pillars of guidance and attention for all arms/branches of government.⁵⁵ A non-biased evaluation of the preceding parts of this paper would seem to suggest that there is no environmental right enforceable in Nigeria. However, this is untrue because of the Supreme Court's ruling in *Chief Adebisi Olafisoye v Federal Republic of Nigeria*⁵⁶ offers hope. Summarily, the first element of environmental rights, according to Nigerian law, is the right to a safe, healthy and habitable environment. However, the enforcement of this right poses an additional difficulty.

4. Rights to Enforce and Seek Remedies against the Violation of Environmental Rights

Assuming that the rights to a clean and healthy environment are recognised in Nigeria, are the rights enforceable? Is one entitled to seek redress and remedies against any breach or violation of the identified environmental rights? *Locus standi* is a legal requirement or

⁴⁴ Nwabueze (n25), at 49.

⁴⁵ *Ibid.*

⁴⁶ It serves as the grundnorm and fundamental law of the country; see s. 1(1) of the Constitution.

⁴⁷ Awolowo (n42) at 21.

⁴⁸ CFRN (n7)

⁴⁹ *Ibid.*

⁵⁰ S. 6(6) (c) *ibid.*

⁵¹ CFRN (n7).

⁵² Chapter II *ibid.*

⁵³ *Morebishe v. Lagos State House of Assembly* (n34).

⁵⁴ CFRN (n7).

⁵⁵ Abdulkadir & Sambo (n13) at 73

⁵⁶ (2004) 4 NWLR pt. 864, 580.



threshold for one to enforce or prosecute any matter in a Court rightly.⁵⁷ It refers to the legal capacity to initiate legal proceedings in a competent court of law. It is a threshold issue that directly affects the enforcement of environmental rights in the legal system of Nigeria.⁵⁸ Establishing a party's *locus standi* in a case may prove to be a very complex task. This is owed to the fact that where the plaintiff lacks the *locus standi* to institute a legal proceeding, the court will rightly decline the jurisdiction to consider it.⁵⁹

In *Oronto Douglas v Shell Petroleum Development Company and Ors*,⁶⁰ the claimant filed a lawsuit against the defendants, requesting adherence to the terms of the Environmental Impact Assessment Act. This was over a project on Liquefied Natural Gas in present-day Rivers State that the defendants were carrying out. Nevertheless, the lawsuit was dismissed because the court determined that the claimant had no legal capacity to initiate the lawsuit. As held by the Court, no proof was made available that the claimant's rights were violated or that any dire interest of his was at stake.⁶¹

Locus standi, as a legal doctrine, is intended to control conflicts in two public interest areas. First is the need to prevent professional litigants, or meddlesome interlopers from using the court's jurisdiction for cases that may not directly affect them. Second is protecting and encouraging the desire of individual citizens to participate in the enforcement of the law actively. However, the Nigerian judiciary seems to have applied a stringent interpretation of the *locus standi*'s rule.⁶² This has not only presented a significant obstacle to the filing of lawsuits in court by civic-minded people seeking to defend public interests. It has significantly affected the enforcement of environmental rights in the country.⁶³

The researcher is of the opinion that *locus standi* is a legal technicality that prevents victims of environmental rights violations from accessing justice. Furthermore, the Rio Declarations,⁶⁴ says that it is best to address environmental challenges with the involvement of all concerned individuals at the appropriate levels. This conflicts with the stringent application of *locus standi*. Therefore, the rule should only be used to prevent needless and baseless lawsuits. Nigerian judiciary should endeavour to play a more proactive role, lowering the requirements for *locus standi* in the interests of justice. This has been exemplified in the recent case of *Centre for Oil Pollution Watch v NNPC*.⁶⁵ However, the challenge with the recognition and enforcement of environmental rights in Nigeria has been the rightful law that provides the ground for such recognition and enforcement. To address this, the paper will refer at this juncture to the African Charter on Human and People's Rights.

⁵⁷ EA. Odike. *Principle and Practice of Nigeria Legal System*. (Enugu: Tinks Graphics, 2016).

⁵⁸ Ibid.

⁵⁹ Ibid; See *Madukolu v Nkemdilim* (1962) 2 SCNLR 341 and *UAC v. Macfoy* (1961) 3 All ER 1169 at 1172 where the court held that "one cannot put something upon nothing and expect it to stand."

⁶⁰ (1998) LPELR CA/L/143/97; (1999) 2 NWLR 466 (CA) 129.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Al Ogbuigwe. "Corporate social responsibility and environmental sustainability in Nigeria: an appraisal of the oil and gas industry". (2011) 13(3) *Journal of Sustainable Development in Africa*, 117-136.

⁶⁴ Principle 10 Rio Declaration, 1992.

⁶⁵ (2019)5 NWLR pt. 1666, 518.



5. Environmental Rights in Nigeria and the African Charter on Human and People's Rights

The African Charter on Human and Peoples' Rights (ACHPR)⁶⁶ provides a remedy for the Nigerian Constitution's non-justiciability of the right to a safe, healthy and habitable environment.⁶⁷ Nigeria has ratified and domesticated the ACHPR by enacting the "African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act".⁶⁸ As a result of this ratification, Nigeria is bound by the terms of the Charter. This was established in *Abacha v Fawehinmi*,⁶⁹ as the Supreme Court ruled that the government is subject to the force of law resulting from the Charter's re-enactment as a part of its domestic legislation. While Nigerians may rely on the provisions of the ACHPR to enforce their environmental right, it is argued that the articles of the Charter conflict with the Constitutional provisions.⁷⁰ Judging from the supremacy of the Constitution⁷¹ one may argue that the stance of the Constitution⁷² still stands with respect to the environmental rights under the Constitution. However, a more welcomed argument is that judicial decisions should rely on Art. 24 of ACHPR to uphold, protect, and enforce the rights to a safe, healthy and habitable environment in Nigeria. Regardless of the severity of the breaches of these rights in Nigeria, the right is as contentious as other discussions surrounding new or emerging rights. So, there is no legally protected "environmental right" guaranteed under the Nigerian Constitution to address the various acts of environmental degradation and abuses, except a reliance on the ACHPR.

6. Environmental Sustainability in Nigeria

The term "sustainability" has been defined as "the development that meets the needs of the present without compromising the ability of future generations to meet their own needs".⁷³ This refers simply to the consistent protection of natural resources to preserve them for both current and prospective generations to come. It entails the exploitation and use of environmental resources without compromising the people's rights to environmental protection. Generally, sustainability demands that in development projects and programs, there must be a complete consideration of environmental factors. According to the Rio Declaration,⁷⁴ "in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it."

To enhance the health and well-being of all peoples on the planet, natural resources and ecosystems must be preserved or protected.⁷⁵ Given that the environment is just as

⁶⁶ African Charter on Human and Peoples' Rights, 1981.

⁶⁷ A Ogumba. 'An Appraisal of the Evolution of Environmental Legislation in Nigeria' [2016] 40 *Vermont Law Review*, p. 673.

⁶⁸ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap 10 Laws of the Federal of Nigeria 1990

⁶⁹ (2000) vol. 77, Law Reports of Courts of Nigeria p. 1254 -1401.

⁷⁰ Particularly, Art. 24 ACHPR, SS. 6(6), 13, 17, and 20 CFRN (n7)

⁷¹ Contained in s. 1, CFRN (n7)

⁷² In consideration of s. 6(6) (c), CFRN (n7).

⁷³ World Commission on Environment and Development 1987

⁷⁴ Principle 4 Rio Declaration, 1992.

⁷⁵ M. Blowfield. *Business and Sustainability*. (2013). https://books.google.com.ng/books?hl=en&lr=&id=GEV-DHginKIC&oi=fnd&pg=PP1&dq=blowfield+business+and+sustainability&ots=O_C_F8uLD-&sig=iOpRff8vXBA0LnWekSeZTbG55g&redir_esc=y#v=onepage&q=blowfield%20business%20and%20sustainability&f=false accessed 6/11/2023.



dynamic as people, it is crucial to stress the significance of environmental sustainability. Environmental sustainability is a two-way concept. On the one hand, it is the sustainability that comes from human efforts to prevent industrialisation, scientific, and economic advancements from having a negative impact on the environment.⁷⁶ On the other hand, it is the sustainability that arises from the need to avert rapid changes to the environment.⁷⁷

As stated at the beginning of this section, the Brundtland Commission⁷⁸ defined sustainability as the capacity to meet current demands without endangering or impairing the capacity of future generations to meet their own needs. The concept of sustainable development implies limits; these are not absolute limits but rather restrictions placed on environmental resources by the State of technology and social organisation today, as well as by the biosphere's capacity to absorb the effects of human activity.⁷⁹ It is within humanity's power to ensure that development is sustainable—that is, to meet current demands without jeopardising the ability of future generations to meet their own.⁸⁰

Sustainable development principles require that environmental factors be considered when developing and implementing governmental policy. By mandating the inclusion of these issues in all decision-making processes, they also help to reconcile environmental and developmental values. The necessity that the private and public sector performs an environmental impact assessment before making any technical interventions in the environment serves as further evidence of this idea.⁸¹

The National Policy on Environment of Nigeria serves as a framework for managing the environment and natural resources of the nation. It lays out directives for sector-specific and cross-sector-specific strategic policy declarations and environmental management practices that support sustainable development. The policy's goal is to "ensure environmental protection and the conservation of natural resources for sustainable development," acknowledging that environmental degradation "strikes at the heart of the sustainability of the society and is compounding human efforts to attain sustainable development."⁸²

Environmental sustainability cannot be comprehensively analysed without referencing sustainable development as already considered above and environmental impact assessments (EIA). EIA is a commonly used framework for evaluating a project's, policy's, or program's possible environmental impact. Many nations have legal requirements for environmental impact assessments (EIAs), and their efficacy in reducing the negative consequences of development initiatives is widely recognised.⁸³ The process of assessing a proposed project's or activity's possible environmental effects before the implementation is known as EIA.⁸⁴ EIA's objective is to locate and lessen any adverse effects on the

⁷⁶ E E Okon, "The legal status of sustainable development in the Nigerian environmental law" (2016), 5(1) *Afe Babalola Journal of Sustainable Development Law and Policy*, p. 122.

⁷⁷ *Ibid.*

⁷⁸ Brundtland Commission (1987)

⁷⁹ (World Commission on Environment and Development & Brundtland 1987, p. 8

⁸⁰ Okon (n76), at 124.

⁸¹ See the Environmental Impact Assessment Act, 2004.

⁸² National Policy on Environment (Revised Edition, 2016), Para 2-

⁸³ J, Glasson, R., Therivel, & A. Chadwick. *Introduction to environmental impact assessment*. (New York: Routledge, 2012), 58.

⁸⁴ *Ibid.*



environment, public health, and social welfare.⁸⁵ In Nigeria, the EIA Act of 2004 mandates that all projects that are anticipated to have a substantial impact on the environment undergo an EIA before approval and commencement.⁸⁶

The EIA comprises multiple phases, such as scoping, baseline investigations, effect projection, and alternative appraisal.⁸⁷ But it is found that projects are commenced and even completed in Nigeria without an EIA - a situation that negatively affects environmental sustainability in the country. In some cases where the EIA is done, provisions relating to the right to participation and information are violated.⁸⁸ A good example is the dredging of the lower river Niger.⁸⁹ It was ugly enough that the EIA was conducted midway into the project as opposed to before commencement; some community members were not consulted, and the assessment report was provided for all relevant stakeholders. Cases like this are not owed to the non-provision of the law in terms of penalties for default, but the issue is the non-imposition of the penalties on the offenders.⁹⁰

A successful EIA should evaluate the environmental elements that could impact a project's or activity's success and the effects the project or activity will have on the environment. This is so that any potential environmental repercussions of a project or activity can be assessed and mitigated.⁹¹

Environmental sustainability has a structure thanks to the United Nations Global Compact.⁹² The private and public sectors must adhere to eco-friendly practices⁹³ and lessen their environmental effect to comply with the Global Compact.⁹⁴ Additionally, firms can report on their environmental effect according to rules provided by the Global Reporting Initiative (GRI).⁹⁵ Though multinational corporations in Nigeria have started to comply with the requirements under GRI and the Global Compact, government entities seldom comply. Therefore, it is unclear how effective the Global Compact and GRI are in promoting environmental sustainability.⁹⁶

Many concerned parties have only loosely embraced the Global Compact principles and have not made significant efforts to lessen their environmental effect or advance environmental sustainability. As a result, despite growing awareness of environmental sustainability, the Global Compact has not been fully implemented.⁹⁷

⁸⁵ Ibid.

⁸⁶ RO Ogunlade, RO, Fagbenle, & OS. Ohunakin. "Environmental impact assessment of renewable energy projects in Nigeria: challenges and recommendations". (2017) 108 *Journal of Renewable Energy*, 132-140.

⁸⁷ Ibid.

⁸⁸ . Obaji. "Environment Impact Assessment don't work in Nigeria: Here's why." (2022) *The Conversation*. <https://www.theconversation.com/environmental-impact-assessments-dont-work-in-nigeria-heres-why-188796> accessed 6/11/2023.

⁸⁹ Ibid.

⁹⁰ Obaji (n88)..

⁹¹ OO Olaseni, AO Ajala, & TO Asaolu. Developing an environmental impact framework as a tool for achieving Nigeria's energy transition agenda. (2020) 244 *Journal of Cleaner Production*, 118808.

⁹² United Nations Global Compact. Environmental sustainability. (n.d) <https://www.unglobalcompact.org/what-is-gc/our-work/environment> accessed 6/11/2023.

⁹³ Examples of eco-friendly practices include: reusing and recycling items and materials so as to encourage waste reduction; promote energy conservation, adopt environmentally responsible practices, promote environmental education, etc.

⁹⁴ Ibid.

⁹⁵ Global Reporting Initiative (GRI). 2011. Sustainability reporting guidelines. *GRI 3.1*, Amsterdam, NL.

⁹⁶ J, Schrempf-Stirling, et al. Implementing the UN Global Compact: An empirical analysis. (2016) 134(2) *Journal of Business Ethics*, 239-253.

⁹⁷ Ibid.



Reporting on environmental effects should be a part of the Nigerian framework since it would increase accountability and transparency. This will promote the adoption of environmentally friendly practices and promote environmental sustainability. To improve environmental sustainability, it is crucial that businesses and public sectors not only embrace these principles but also fully apply them and report on their success.

7. Conclusion

In making progress, many countries have guaranteed environmental rights under their domestic laws and constitutions. This aligns with the ACHPR for protecting environmental rights and promoting environmental sustainability. While Nigeria has not incorporated the rights as justiciable rights under its Constitution, the rights may be enforced relying on the ACHPR. Also, there is a strong argument that the existence of environmental rights is rooted in the fundamental civil and social rights of man, especially the rights to life, health, and personal liberty.⁹⁸ Thus, a violation of environmental rights amounts to a violation of the right to life. The argument goes that a polluted environment puts human health at risk, endangering not only lives but also a state's ability to sustain its economy and the ability of its citizens to make a living. Though environmental right and sustainability is recognised under the Nigerian Constitution, the right is not justiciable, thus bringing into perspective the provision of the African Charter on Human and People's Rights. Environmental impact assessment and sustainable development are being adopted to promote environmental sustainability in Nigeria. Also, the United Nations' Global Compact and GRI have played significant roles in promoting environmental sustainability.

8. Recommendations

Based on the discourse and findings in this study, this study recommends as follows:

1. Considering the fact that the right to environmental protection and sustainability is not recognised under the Nigerian Constitution, but Nigeria has ratified and domesticated the ACHPR, interested parties should rely on the ACHPR for the enforcement of their rights. This will help to improve the level of environmental rights protection in the country as environmental justice will be enhanced.
2. A more robust framework and measures should be put in place by the Nigerian government to ensure that individuals, government institutions and companies comply to EIA over any development project prior to the commencement of the project. The introduction and unbiased application of severe penalties will aid the implementation of such framework or measure. This will enable the assurance that projects do not end up endangering the people and the ecosystem.
3. The legislatures should take a bold step to formally incorporate environmental rights and sustainability as justiciable rights under the Nigerian Constitution. This will position Nigeria as one of the countries across the globe that has taken proactive statutory measures towards the recognition and enforcement of environmental rights. This will also be an enormous step towards combating the effects of climate change through laws.

⁹⁸ O G Amokaye, *Environmental Law and Practice in Nigeria*, (MIJ Professional Publishers, Sabo-Yaba, Lagos, 2014) p. 177.



4. The Nigerian judiciary has to adopt a more flexible approach in its interpretation of the principle of *locus standi* in cases relating to protection of environmental rights and sustainability. Doing so will aid in averting the risk of putting a clog against the need to enforce environmental rights and justice.