WHEN THE OCEAN PAYS THE PRICE; OIL POLLUTION, CORPORATE ACCOUNTABILITY AND THE PROTECTION OF MARINE ECOSYSTEMS UNDER NIGERIAN LAW

By

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INTRODUCTION

Before I begin, I would like to pose a thorny question that I want every member of the audience to keep in mind, that is: "When Did a Spill Become a Legal Question?" All over the world, the ocean is often discussed as a vast natural resource,[1] as it's viewed as a source of food, trade, employment and economic opportunity. Yet, the health of marine and coastal ecosystems seems to be inseparable from the lives of the people who depend on them; pollution entering one part of that system can travel beyond the point of release, affecting aquatic life, fishing grounds, drinking-water sources and the wider environment. Oil pollution can therefore be both an ecological injury and a social and legal crisis.[2]

These have received legal jurists and scholars contributions, which have shaped our legal jurisprudence - therefore, this paper is to use the **Bille and Ogale**[3] decision as a case study to examine a very important question: **does Nigeria's legal framework adequately prevent oil pollution, protect marine ecosystems and provide effective remedies when environmental damage occurs?** The discussion combines doctrinal legal analysis with an environmental-governance perspective. It equally argues that the effectiveness of environmental law must be measured not only by the existence of statutes, but also by whether pollution is detected, investigated, contained, cleaned up and remedied in a timely and transparent manner.

THE NIGER DELTA: A LIVING ECOSYSTEM UNDER PRESSURE

[1] Diane Boudreau and others, 'All About the Ocean' (National Geographic Society, 23 September 2026) <https://education.nationalgeographic.org/resource/all-about-the-ocean/> accessed 14 October 2026.
[2] Adams Adoga-Ikong and Patience Tah Besong, 'Oil Pollution in Nigerian and the Issue of Human Rights of the Victims' (2019) 12(2) Predestinasi 91
[3] The Bille and Ogale Group Litigation / Judgment [2024] EWHC 510 (KB) and [2024] EWHC 2961 (KB)

The Niger Delta, located in southern Nigeria, is a unique ecological region characterised by mangrove swamps, creeks, rivers and diverse aquatic life. Its indigenous communities heavily depend heavily on fishing, farming and other natural resources for their livelihoods.[4]

Even though the Niger Delta's abundant rainfall sustains its rich ecological systems, it also makes the relationship between land-based activities and aquatic environments particularly important. Nigeria's Nationally Determined Contribution (NDC) 3.0 identifies a significant rainfall gradient across the country, with precipitation generally declining from south to north. While annual rainfall in southern Nigeria usually reaches 2,000 mm and above, some areas, including the Niger Delta, receive as much as 4,000 mm or more. This climatic characteristic, considered alongside the region's extensive network of rivers, creeks and coastal waters, highlights the importance of protecting the interconnected ecosystems upon which local communities depend.[5]

However, oil pollution threatens this delicate ecosystem[6]Its spills can contaminate water and sediment, damage vegetation, harm aquatic organisms and reduce the availability of resources. These effects extend beyond environmental degradation, affecting food security, income and the traditional occupations of local communities.

For instance, on 20 December 2011, an oil spill occurred during crude oil transfer at the Bonga oil field, releasing over 40,000 barrels of oil[7]. The incident raised concerns about damage to marine ecosystems and the livelihoods of coastal communities. Similarly, in Jalla and Others v Royal Dutch Shell Plc and Others, the English courts considered claims concerning alleged environmental damage suffered by coastal communities in Bayelsa and Delta States. The case equally answers how legal challenges are involved in seeking remedies for environmental harm.

THE BILLE AND OGALE CASE: WHAT THE 2025 JUDGMENT ACTUALLY DECIDED

The group proceedings in Alame and Others v Shell plc and Another involve claims associated with alleged oil pollution affecting Bille and Ogale in the Niger Delta. The defendants named in

[4] Wikipedia <https://en.wikipedia.org/wiki/Niger_Delta> accessed 7th October, 2026
[5] Nigeria, Nigeria's Third Nationally Determined Contribution (NDC 3.0) (2025) UNFCCC official document.
[6] Ibid.
[7] Jalla and another v Shell International Trading and Shipping Company Ltd and another [2023] UKSC 16.

the 2025 judgment were Shell plc and Renaissance Africa Energy Company Limited, identified in the proceedings as the company formerly known as the Shell Petroleum Development Company of Nigeria Ltd. The claimants include individuals and representatives bringing claims on behalf of communities. Their claims seek damages and other relief in relation to alleged losses connected with oil pollution.

The litigation began in 2015 and was originally framed through private-law claims, including tort and breach of statutory duty. Amendments in 2023 added claims based on the Nigerian Constitution and the African Charter on Human and Peoples' Rights. Because the alleged events occurred in Nigeria, the parties accepted that Nigerian law applied to the substantive claims, although the proceedings were being heard in England.

Before the main trial, the parties agreed on a set of preliminary legal questions. The High Court's 20 June 2025 judgment addressed 22 remaining preliminary issues after two issues fell away following an earlier Court of Appeal decision. These questions included limitation periods, the scope of liability under section 11 of the Oil Pipelines Act, claims involving third-party interference, common-law liability, and the extent to which constitutional or African Charter rights could support claims against private companies.

The judgment is significant, but it should be described precisely. It did not amount to a final trial of every factual dispute about the alleged pollution, nor did it establish that all losses alleged by the claimants were caused by the defendants. Instead, it clarified legal principles that would govern later proceedings. Among other matters, the court considered the statutory liability of pipeline licence-holders and the relevance of third-party interference; it also examined the limitations of using fundamental-rights claims as a route to remedies for pollution. The factual questions of causation, the source of particular pollution, the extent of damage and the appropriate remedies remained matters requiring determination through the litigation process.

The case demonstrates a recurring challenge in environmental litigation: communities may need to prove complex scientific and historical facts while also navigating technical rules about limitation, standing, causes of action and evidence. It also shows why the availability of a legal remedy must be distinguished from the eventual success of a claim. A legal system can recognise a route to court and still leave difficult practical questions about the cost of evidence, the duration of proceedings and the delivery of remediation.

NIGERIA'S LEGAL FRAMEWORK

1. **THE CONSTITUTION AND THE AFRICAN CHARTER**: The enforceability of environmental rights has long been a subject of debate in Nigerian constitutional law. Although section 20 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) expressly directs the State to protect and improve the environment and safeguard Nigeria's water, air, land, forests and wildlife, its placement in Chapter II, which contains the Fundamental Objectives and Directive Principles of State Policy, raises questions about its judicial enforcement. Section 6(6)(c) generally precludes courts from determining whether an act or omission complies with Chapter II when the provision is relied upon as a standalone claim. Nevertheless, this constitutional limitation does not render environmental protection legally irrelevant or place environmental harm entirely beyond judicial scrutiny.

   The constitutional framework must therefore be understood alongside the legislative measures through which the State gives effect to its environmental obligations. As Professor Muhammed Tawfiq Ladan's analysis of constitutional governance illustrates,[8] Chapter II objectives can acquire legal effect through legislation enacted to implement them. This approach is consistent with the Supreme Court's reasoning in **Attorney-General of Ondo State v Attorney-General of the Federation**,[9] where the Court considered the constitutional basis for legislation implementing the objective of abolishing corrupt practices. Although that case did not concern environmental protection directly, it illustrates the broader constitutional principle that legislative action can provide a legal mechanism for implementing objectives contained in Chapter II. In the environmental context, section 20 must therefore be considered alongside applicable environmental legislation and the constitutional powers under which such legislation is enacted.

   More importantly, the Supreme Court's decision in **Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation**[10] marked an important

[8] Nigerian Constitutional Provide Legal Foundation For Environmental Governance --Prof. Tawfiq Ladan <https://www.dailynaijaupdates.com.ng/2026/07/nigerian-constitutional-provide-legal.html?m=1> assessed on the 8th October, 2026
[9] (2002) 9 NWLR (Pt.772) 222
[10] (2019) 5 NWLR (Pt 1666) 518

development in Nigerian environmental jurisprudence, the Court addressed the standing of an environmental non-governmental organisation to institute proceedings concerning oil pollution affecting public water resources. The decision challenged restrictive approaches to access to environmental justice and recognised the importance of interpreting environmental protection within the broader constitutional and statutory framework. The judgments also linked section 20 of the Constitution with the protection of life under section 33 and the right to a satisfactory environment under article 24 of the African Charter on Human and Peoples' Rights. The decision is significant because it strengthens the legal basis for environmental litigation, although its holdings should not be interpreted as making every Chapter II provision independently enforceable in all circumstances.

The African Charter provides an additional legal foundation. Article 24 recognises the right of all peoples to a general satisfactory environment favourable to their development. Unlike section 20 of the Constitution, the Charter has been incorporated into Nigerian domestic law through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act. Its provisions may therefore provide an independent legal basis for environmental claims, subject to the applicable law, the facts of the case and the requirements for establishing a cause of action. Read together with the constitutional protection of life and dignity under sections 33 and 34, the Charter strengthens the argument that serious environmental pollution may implicate legally protected rights rather than constitute merely a failure to achieve a constitutional policy objective.

Accordingly, Nigeria's legal framework should not be understood as establishing an absolute choice between an enforceable and an unenforceable right to environmental protection. Rather, the central question is the legal basis upon which enforcement is sought. While section 20, standing alone, faces the limitation imposed by section 6(6)(c), applicable legislation, the domesticated African Charter and relevant fundamental rights provisions may provide avenues for judicial intervention. This distinction is particularly important in addressing oil pollution in the Niger Delta, where environmental degradation can threaten access to safe water, livelihoods, public health and human dignity. The effectiveness of environmental protection therefore depends not only on constitutional

recognition but also on the availability of legal remedies, meaningful access to justice and the enforcement of existing environmental obligations.

2. **THE OIL PIPELINES ACT**: Section 11(5)(b) of the Oil Pipelines Act addresses liability of an oil pipeline licence-holder for damage caused by breakage or leakage from a pipeline or ancillary installation, subject to the statute's terms and scope. In applying the provision, the relevant infrastructure, source of pollution, damage and any applicable statutory conditions or defences must be examined. The Bille and Ogale judgment considered the operation of this provision, including issues involving alleged third-party interference.
3. **NOSDRA AND PETROLEUM REGULATION**: The National Oil Spill Detection and Response Agency (Establishment) Act 2006 provides for the coordination of oil-spill detection and response, including implementation of the National Oil Spill Contingency Plan. Effective response depends on prompt reporting, credible investigation, accessible records, adequate capacity and follow-up monitoring. The Petroleum Industry Act 2021 also forms part of the regulatory framework, alongside legislation governing spill response, pipeline liability and environmental management.

CORPORATE ACCOUNTABILITY: WHO MUST PAY, REPAIR AND PREVENT?

Generally, corporate accountability for oil pollution has several dimensions. The first is **PREVENTION**, operators should maintain infrastructure, assess risks, follow applicable standards and take reasonable steps to avoid foreseeable releases. The second is **RESPONSE**, once a spill occurs, the responsible parties and relevant public agencies must act promptly to contain it, notify the appropriate authorities and reduce further harm. The third is **REMEDIATION and REMEDY**, affected environments may require clean-up and restoration, while individuals and communities may seek compensation for legally recognised losses.[11]

Private-law claims may include negligence,[12] nuisance, trespass, liability under statute and, where the applicable requirements are satisfied, the rule associated with the escape of

[11] Victor Chukwudi Odoeme, 'Corporate Accountability in the Nigerian Oil and Gas Sector: Coping with Uncertainties' (2013) 39(4) Commonwealth Law Bulletin 741–765
[12] Donoghue v Stevenson [1932] AC 562 (HL).

dangerous things.[13] Each cause of action has its own elements and limits. Negligence generally requires a duty of care, breach, causation and legally recognised damage. Nuisance focuses on interference with the use or enjoyment of land or related interests. Statutory claims depend on the wording and scope of the legislation. The correct legal route therefore depends on the source of pollution, the claimant's interest, the evidence and the type of harm alleged.

The 2025 Alame judgment illustrates why these distinctions matter. The court considered whether certain causes of action were available in different scenarios, including pollution said to have resulted from third-party interference or illegal refining. It would be inaccurate to read the judgment as declaring that an oil company is automatically liable for every spill, or that third-party interference always absolves an operator. The legal question is more specific: what duty or statutory responsibility applies, what facts must be proved, and what consequences follow under Nigerian law?

Corporate accountability also extends beyond damages. A financial award may compensate for some losses, but it cannot by itself restore a damaged mangrove system, rebuild trust or ensure that a contaminated creek becomes safe for fishing. Depending on the facts and available legal powers, effective remedies may include containment, clean-up, ecological restoration, monitoring, disclosure of information and compensation.[14]

INTERNATIONAL OCEAN LAW AND BARRIERS TO ACCOUNTABILITY

The United Nations Convention on the Law of the Sea (UNCLOS) provides an international framework for protecting the marine environment.[15] Article 192 establishes a general obligation on States to protect and preserve the marine environment; article 194 addresses measures to prevent, reduce and control marine pollution; and article 207 concerns pollution from land-based sources, including pollution that may travel through rivers and pipelines. UNCLOS does not replace Nigerian law or automatically determine a private company's liability in a domestic

[13] Rylands v Fletcher (1868) LR 3 HL 330.
[14] Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation [2019] 5 NWLR (Pt 1666) 518 (SC).
[15] United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, art 192.

damages claim.[16] It reinforces the need for effective national measures to control pollution that can move from land and freshwater systems into coastal waters.

Accountability can be difficult for several reason; first, causation may require technical evidence establishing the source, movement and impact of pollution. Delayed investigations and inaccessible data can make proof more difficult. Secondly, environmental litigation can be expensive and slow, while communities may have fewer resources than corporate defendants. Thirdly, fragmented institutional responsibilities can complicate reporting, investigation, clean-up and enforcement. Finally, legal outcomes do not necessarily mean ecological recovery: affected sites may require long-term monitoring after initial remediation.

RECOMMENDATIONS

1. Nigeria should strengthen transparent spill reporting and public access to information, including clear records of incident dates, locations, suspected sources, investigation methods and remediation status.
2. Regulators should have the capacity to inspect, investigate and monitor compliance, while operators should maintain appropriate infrastructure-integrity programmes and contingency arrangements in accordance with applicable law. Enforcement should address both immediate containment and long-term prevention. Remediation plans should identify affected habitats, set measurable restoration objectives and provide for independent follow-up monitoring.
3. Communities should be treated as participants in environmental governance.
4. Finally, remedies should respond to the range of harm proved and, where legally available, combine compensation with clean-up, restoration, disclosure and measures to prevent recurrence.

CONCLUSION

The Bille and Ogale litigation clearly explains the link between petroleum development, marine protection and access to justice in Nigeria. The Court judgment therefore clarified preliminary

[16] Patricia Birnie, Alan Boyle and Catherine Redgwell, International Law and the Environment (3rd edn, OUP 2009).

questions of Nigerian law without finally determining liability for all alleged pollution. To provide a sense of security, protection & compliance, it will be very imperative uphold these laws, including the Constitution, Oil Pipelines Act, NOSDRA Act, Petroleum Industry Act, African Charter and UNCLOS. However, their effectiveness depends on credible investigations, timely clean-up, transparent enforcement and accessible remedies. Also, protecting the blue economy requires recognising healthy marine ecosystems as essential to sustainable development.