

**APPRAISING THE IMPACT OF ENVIRONMENTAL POLLUTION ON CHILDREN'S RIGHTS: THE  
ROLE OF LAW\***

**Abstract**

*The right to a safe, clean and healthy environment is very essential for the growth and development of the child. The magnitude of environmental harm is an imperative and systemic threat to children's rights globally. Unsustainable use of natural resources, combined with widespread contamination through pollution and waste, have had untold impact on the natural environment, fueling climate change, intensifying toxic pollution of water, air and soil, causing ocean acidification, and devastating biodiversity and the very ecosystems that support and sustain all life, including children. International, regional and national laws on the protection of rights of the child, provide that in every action concerning a child, whether undertaken by an individual, public or private body, institutions of service, court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration. As rights-holders, children are entitled to protection from infringements of their rights stemming from environmental harm and to be recognized and fully respected as active environmental inhabitants. A clean, healthy and sustainable environment is necessary for the full enjoyment of a broad range of children's rights, including life, survival and development, health, education, adequate standard of living, housing, food, water and sanitation, rest, play, leisure and cultural life, and protection from violence and exploitation. This paper is a discourse on the human activities degrading the environment, their impact on the rights of children and the way out of the worrisome situation. It adopted the doctrinal research methodology.*

**Keywords:** Environmental Pollution, Children, Health, Law, Children's Rights.

**1. Introduction**

There is no group that is more vulnerable to environmental harm than children. Air pollution, water pollution and exposure to toxic substances, together with other types of environmental harm, cause 1.5 million deaths of children under the age of 5 every year, and contribute to disease, disability and early mortality throughout their life.<sup>1</sup> Due to their immaturity, children are dependent on adults with respect to where they live and school. The World Health Organization declared that 'the physical, social and intellectual development of children require an environment, which is both protected and protective of their health. A growing number of diseases in children are linked to unsafe environments in which they live, play, learn and grow'.<sup>2</sup> Environmental rights, as defined by the United Nations Environment Programme, include both substantive and procedural rights. Substantive rights 'include those in which the environment has a direct effect on the existence or the enjoyment of the right itself' and include both civil and political rights, as well as cultural and social rights, such as the rights to 'health, water, food, and culture in addition to collective rights affected by environmental degradation,' including indigenous peoples' rights.<sup>3</sup> Procedural rights represent an important intersection between human rights law and environmental law, as they prescribe actions that states must take to enforce legal rights. They include access to information and participation in decision-making, access to justice, and other rights.<sup>4</sup>

The environment includes water, air, land and all plants and human beings or animals living therein and the inter-relationships which exist among these or any of them.<sup>5</sup> On the other hand, pollution means man-made or man-aided alteration of chemical, physical, or biological quality of the environment beyond acceptable limits.<sup>6</sup> Environmental pollution, in simple terms, could be described as the activities which reduce the quality of the earth, air and water. According to the Special Rapporteur of the United Nations<sup>7</sup>, children's rights are the promises that the world's government have made to children. Pollution has become one of the greatest existential challenges, particularly in the third world countries which are characterized by low level of environmental awareness, poor environmental practices and regulation. The consequences are various and damning. Pollution does not just affect the environment; it has a direct impact on human life. Some of the implications include health hazards, climate change, depletion of natural resources, mass displacement and strife. Oil activities make the Niger Delta the worst hit states by pollution, while other Nigerian

---

\*By **Chinazor Queen UMEOBICA, PhD**, Reader and Head, Department of Private and Property Law, Faculty of Law, Nnamdi Azikiwe University, Awka, Anambra State, Nigeria. [cq.umeobika@unizik.edu.ng](mailto:cq.umeobika@unizik.edu.ng), [queencumeobika@gmail.com](mailto:queencumeobika@gmail.com); and

\***Godstime NWAEZE, LLB**, Alumnus, Faculty of Law, Nnamdi Azikiwe University, Awka, Anambra State, Nigeria. Email: [mariagodstime@gmail.com](mailto:mariagodstime@gmail.com).

<sup>1</sup> United Nations Human Rights; Office of the High Commissioner: 'Reports to the Human Rights Council on the Rights of Children and the Environment' (2019) (A/HRC/37/58) <<https://www.ohchr.org/en/special-procedures/sr-environment/childrens-rights-and-environment>> accessed 20<sup>th</sup> February 2024

<sup>2</sup> A. C. Olufemi, P. O. Bello and Andile Mji, Conflict Implications of Coal Mining and Environmental Pollution in South Africa: Lessons from Niger Delta, Nigeria, *African Journal on Conflict Resolution* Vol. 18 No. 1 (2018)

<sup>3</sup> K. E. Makuch, Sunya Zaman, and M. R. Aczel, 'Tomorrow's Stewards: The Case for a Unified International Framework on the Environmental Rights of Children. Health Human Rights. 2019 Jun;21(1):203-214. PMID: 31239627; PMCID: PMC6586981. Published in National Library of Medicine <<https://pubmed.ncbi.nlm.nih.gov/31239627/>> accessed 1 October 2024

<sup>4</sup> *Ibid.*

<sup>5</sup> NESREA Act 2007, S.37.

<sup>6</sup> *Ibid.*

<sup>7</sup> United Nations Report, Children's Rights and the Environment *Special Rapporteur (A/HRC/37/58)*

metropolises are suffering indiscriminate waste disposals. these activities spell catastrophe for mankind. Particularly, children are the most vulnerable. Their developing physical, social and emotional makeup leaves them at the mercy of these hazards. It affects their present and future, and stifle, among others, their rights to life, education, and health.

## **2. Who is a Child?**

The Constitution of the Federal Republic of Nigeria 1999 defined 'full age' under Section 29(4) as the age of eighteen years and above. By analogy, it means that while adulthood begins from age eighteen, childhood stops at eighteen. The Child's Rights Act 2003 (CRA) is the law which guarantees the rights of all children in Nigeria. According to the CRA, a child is a person below the age of eighteen.<sup>8</sup> For the Black's Law Dictionary,<sup>9</sup> a child is a person under the age of majority. The African Charter on the Rights and Welfare of the Child<sup>10</sup> sees a child as 'every human being below the age of eighteen years.' Under the United Nations Convention on the Rights of the Child, a child is a person below the age of eighteen years except in the law applicable to the child, the age of majority is attained earlier.<sup>11</sup> It must be noted that the legislation on issues concerning children in Nigeria is in the residuary legislative list and as such depends on the States. States are therefore to domesticate the Child Right Act as laws in their various States for it to become applicable.

## **3. Environmental Pollution in Nigeria**

### **Waste Disposal**

There is a pandemic of indiscriminate waste disposal in many Nigerian cities. The people show a complete ignorance of the need to keep their environment clean. Nigeria produces an estimation of 32 million tons of solid waste per year, with only about 20 – 30 percent of it being collected and managed properly.<sup>12</sup> The remainder of the waste is either dumped in unauthorized places or burned, contributing to pollution and health risks. In Africa, Nigeria produces the most solid waste, with approximately 70 percent of it being plastic waste that ends in landfills and water bodies.<sup>13</sup> Plastic is one of the most widely used material in the world, deeply ingrained and play a crucial role in almost every product category. It has played a key role in adding hygienic and functional aesthetic features to consumer products through a wide variety of industrial applications at low cost and high durability. The typical qualities that make it acceptable include being light, flexible, non-degradable, efficient and hygienic for transporting foods and other items. The very properties that led to the rise in the adoption of plastics are precisely why they are environmental nightmare today. According to the UN, 'the world is choking on plastics' and National Geographics says, 'the world is drowning on plastics.'<sup>14</sup> It litters the landscape, cloaks the drainages and gutters, fills the canals and oceans, condemning the land ecosystem, threatening biodiversity and negatively impacting the economy. According to the World Bank, Nigeria is the tenth largest producer of unmanaged plastics in the world, accounting for 2.7 percent of the global total. The world Bank also projected that Nigeria would generate the most unmanaged plastic waste in Africa by 2050.<sup>15</sup> Lagos produces approximately 13,000 tonnes of waste daily, according to the Lagos State Waste Management Agency.<sup>16</sup> Poorly handled waste emits methane, a greenhouse gas (GHG) which accounts for about 20 percent of total GHG emissions.<sup>17</sup> Lagos State Environmental Protection Agency said that every day, around 8 million pieces of plastic make their way into the ocean, with attendant widespread problems affecting the marine environment, threatening the ocean, health of marine species, coastal tourism and contributing to climate change. In Anambra state, the situation is not any different. According to the Anambra State Waste Management Authority, solid waste management is one of the most pressing environmental challenges faced by the state.<sup>18</sup>

### **Mining and Petroleum Activities**

The petroleum industry is the mainstay of the Nigerian economy. However, converting this endowment into valuable resources requires some hard processes which are often unfriendly to the environment. The consumption of energy to achieve economic growth has immensely impacted Nigeria's environment through its influence on CO2 emissions. The exploration, mining and refining of petroleum is causing untold damage on the environment. Drilling the grounds affects the physical landscape as it may disturb the water table, alter stream flow, and generate huge amount of dust and noise. Its impacts also include ecological disturbance, destruction of vegetation, air, land and water pollution. Liquid waste from

---

<sup>8</sup>Child's Rights Act, 2003, Paragraph 16, First Schedule.

<sup>9</sup> B.N. Garner (ed), *Black's Law Dictionary* (West Group, St Paul MINN, 8th ed. 2004) p.254.

<sup>10</sup> ACRWC 1999, Article 2.

<sup>11</sup> United Nations Convention on the Rights of the Child 1989, Article 1.

<sup>12</sup> E. Braimah, The Current State of Waste Management in Nigeria and the Challenges of Transitioning to a Circular Economy (March 30, 2023) <[https://www.linkedin.com/pulse/current-state-waste-management-nigeria-challenges-circular-braimah?utm\\_source=share&utm\\_medium=member\\_android&utm\\_campaign=share\\_via](https://www.linkedin.com/pulse/current-state-waste-management-nigeria-challenges-circular-braimah?utm_source=share&utm_medium=member_android&utm_campaign=share_via)> accessed 19<sup>th</sup> March 2024.

<sup>13</sup> *ibid.*

<sup>14</sup> E. Eromosele, 'Tackling Plastic Pollution in Nigeria' (Newspaper) *This Day News Paper Limited*, Lagos <<https://www.thisdaylive.com/index.php/2023/04/10/tackling-plastic-pollution-in-nigeria>> accessed 19<sup>th</sup> March 2024

<sup>15</sup> *Ibid.* (n. 9)

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup>Premium Times (Agency Report), Anambra spends N1.5 billion annually on solid waste management – Official <https://www.premiumtimesng.com/regional/south-east/441910-anambra-spends-n1-5-billion-annually-on-solid-waste-management-official.html?tzc=1> accessed 19<sup>th</sup> March 2024

mining/mineral processing requires specialized storage. Yet, to cut cost, oil companies run waste into the nearest stream, thereby polluting the water and endangering aquatic life. Environmental degradation is caused by consistent flow of industrial waste, oil spills, gas flares, acid rain which leads to pollution of water, farmland, and fishponds. The Niger Delta region has been a victim of oil pollution in Nigeria. The findings of the World Bank in 1995 are still the same; it concluded, among other things, that the environment was being degraded and all indices of development were far below standard.<sup>19</sup> Oil is transported through pipelines in the refineries, and oil leakage originate from corroded pipelines. The spillage spreads through and pollute the lands and water bodies. The pollution caused by petroleum industry in Nigeria has been a subject of heavy lawsuits. The agitation of the people has not yielded any concrete and practical change, things are getting worse, instead. Over five decades, oil and gas extraction have caused large-scale, continued contamination of the water and soil in Ogoni communities. The continued and systematic failure of oil companies and government to clean up have left hundreds of thousands of Ogoni people facing serious health risks, struggling to access safe drinking water, and unable to earn a living.<sup>20</sup> The Bayelsa State Oil and Environmental Commission's (BSOEC) report says oil companies have spilled at least 110,000 barrels of oil in Bayelsa over the past 50 years. Ninety percent of this toxic pollution came from facilities operated by just five international oil majors: Shell, Eni, Chevron, Total and ExxonMobil.<sup>21</sup> The BSOEC's researchers documented oil industry pollution at 17 key sites in the state, finding startlingly high levels of toxic chemicals in soil, surface and groundwater, and in the air, as well as in crops and animals eaten by residents.<sup>22</sup> Just like illegal bunkering, oil companies sill openly flare gas at the detriment of their host communities. In Egbema in Rivers, residents say that the Agip operations have become a nightmare for them due to constant flaring of gas and oil spillages. The area has continued to suffer massive pollution since Agip discovered oil in commercial quantity. Lungs and other respiratory issues are prevalent there. Some of them are growing grey hair as early as 18 and 19 years.<sup>23</sup> As of 2017, Nigeria had an estimated 1,200 identified abandoned mining sites, where mining activities ceased without proper closure or reclamation and continue to degrade the environment and pose physical dangers in the form of weakened and collapsing shafts, sinkholes, and water-filled pits.<sup>24</sup>

### **Housing and Construction**

In the recent years, urbanization has led to increasing demands for residential and commercial real estates. The resulting environmental challenges have become rampant. The environmental impacts caused by housing and construction projects involve water, air, solid waste, and light pollutions and have wide ecological influence. Heavy equipment used for excavating the ground for sand and stones cause degradation of landscape leading to erosions. This is in addition to noise pollution generated from construction site. The air and water are also exposed to pollution through dust and other site wastes discharged incautiously. Cement and steel production, and wood harvesting are some of the specific housing activities that degrade the environment.<sup>25</sup>

### **Agricultural Practices**

Agriculture, including how we grow, raise, transport, process, and even store food and non-food crops and agricultural products, has a profound effect on the planet.<sup>26</sup> Agricultural pollution is the contamination we release into the environment as a by-product of growing and raising livestock, food crops, animal feed, and biofuel crops.<sup>27</sup> To begin with, livestock pollution is turning neighbourhoods into stench. Cows, pigs, chickens, and turkeys defecate and make residential areas uninhabitable. Livestock and their manure also pollute our air. According to the United Nations' Food and Agriculture Organization, manure management alone accounts for 12 percent of all agricultural greenhouse gas emissions in the United States.<sup>28</sup> Globally, it accounts for 14.5 percent.<sup>29</sup> Nitrogen-based fertilizer allows high yield but has serious downsides for water supply and climate. Excess nitrogen in the atmosphere becomes nitrous oxide, a potent greenhouse gas, which contribute to ground level air pollution by a mixture of smoke and fog.<sup>30</sup> The Food and Agriculture

---

<sup>19</sup> P. P. Ugboma, 'Environmental Degradation in Oil Producing Areas of Niger Delta Region, Nigeria: The Need for Sustainable Development' *International Journal of Science and Technology* (2015) Vol. 4 No. 2.

<sup>20</sup> I. Ekot, 'For Weary Niger Delta Residents, Shocking Oil Pollution Report Offers Little Hope' *Mongabay* 16<sup>th</sup> May 2023 <<https://news.mongabay.com/2023/05/for-weary-niger-delta-residents-shocking-oil-pollution-report-offers-little-hope/>> accessed 20<sup>th</sup> February 2024.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> J. Ojo, 'Rivers residents 'dying slowly' as illegal oil refining worsens soot pollution' *The CABLE Newspaper* July 21 2021 <<https://www.thecable.ng/investigation-rivers-residents-dying-slowly-as-illegal-oil-refining-worsens-soot-pollution/amp> > accessed 20<sup>th</sup> February 2024.

<sup>24</sup> O. Adelana, 'How Abandoned Mines Endanger Communities Across Nigeria' *The CABLE Newspaper* 31<sup>st</sup> March 2023 <<https://www.thecable.ng/how-abandoned-mines-endanger-communities-across-nigeria/amp> > accessed 20<sup>th</sup> February 2024.

<sup>25</sup> J.R.C. Silva *et al*, Sustainable Construction: A Review of the Current State of Knowledge. *Journal of Cleaner Production* (Vol. 142, 2017).

<sup>26</sup> C. Lindwall 'Industrial Agricultural Pollution 101' *NRDC* July 21 2022 <<https://www.nrdc.org/stories/industrial-agricultural-pollution-101#whatis> > accessed 20<sup>th</sup> February 2024.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

Organization of the United Nations (FAO) has found that nearly 90 percent of deforestation globally is for agriculture with 40 percent for livestock grazing.<sup>31</sup> Practices like clearing forests and bush burning means releasing stored carbon into the environment and destroying diverse ecosystems.

### **Manufacturing Industries**

Manufacturing processes involve heating raw materials to transform them into more useful products. In this process, harmful substances are released into the air. In the same vein, there are other manufacturing methods which use large quantities of water. Wastewater from these processes released into water bodies pollute the water. Household liquid wastes are discharged directly into the mostly open gutters in front of houses or on the streets. The wastewater eventually percolates or is washed into the water bodies by rainstorms. Some of the manufacturing processes that contribute to environmental pollution include textile and leather tanning, metal processing and smelting, and food processing and packaging.<sup>32</sup>

## **4. The Impact of Pollution on the Rights of Children**

### **Environmental Pollution and Children's Right to Education**

Education as the aggregate of all the processes by which the child or young adult develops his abilities, attitudes, and other forms of behaviour, which are of positive value to the society in which he lives. It is an age long wisdom that education liberates. It is a tool for self-realization.<sup>33</sup> Though not justiciable, the Constitution provides that there should be an equal and adequate educational opportunities for all, the promotion of science and technology and eradication of illiteracy.<sup>34</sup> All children, no matter where they live or what their circumstances, have the right to quality education.<sup>35</sup> The Childs Rights Act 2003 enjoins parents to ensure that their wards complete their primary school education and junior secondary education.<sup>36</sup> On the contrary, environmental pollution robs children the right of education. Children's right to education is highly vulnerable to the impact of environmental harm, including school closures and disruptions, dropouts from school, and destruction of schools. With pollution, empowering children to ensure the development of their personality, talents and abilities is inhibited. The knock-on effects resulting from environmental impacts on children includes the need for girls to leave school due to the additional domestic and economic burdens in households facing environment-related shocks and stress.

### **Environmental Pollution and Children's Right to Life**

The right to life is the supreme possession. It is enshrined in every national and international legal regime.<sup>37</sup> The right to life is special for children because a greater part of living still lies ahead of them. They are yet to experience the world, which its future is dependent on them. The right to safe environment is required to guarantee the right to life as they are closely related. The standard of life is dependent on the safety of the environment. The courts have also adopted this liberal approach in *Centre for Oil Pollution Watch v. NNPC*.<sup>38</sup> Unfortunately, environmental pollution, in many instances, has ended the lives of children whose future might have been globally defining. Children are particularly vulnerable to the impacts of environmental degradation due to their evolving physical and mental development. According to a 2022 report titled, 'Making Lagos a Pollution Free City: Solving the Threat One Solution at a Time,' the World Bank reported that at least 30,000 people die annually in Lagos due to pollution.<sup>39</sup> The organs and immune systems of children are still developing, and they absorb more pollutants than adults because of their smaller body weights.<sup>40</sup> 1.7 million children under the age of five die per year because of air and water pollution, exposure to toxic substances, together with other

<sup>31</sup> Food and Agriculture Organization of the United Nations: COP26: Agricultural expansion drives almost 90 percent of global deforestation <<https://www.fao.org/newsroom/detail/cop26-agricultural-expansion-drives-almost-90-percent-of-global-deforestation/en>> accessed 1 October 2024

<sup>32</sup> J. R. Villarreal *et al*, Pollution Prevention in Manufacturing: A Review of Best Practices. *Journal of Environmental Management* (Vol. 183, 2016).

<sup>33</sup>E. Patrick, Education and Manpower Development <[https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.globalacademicgroup.com/journals/knowledge%2520review/Patrick.pdf&ved=2ahUKEwjVw9KEt-6IAxVEQfEDHcrDDyEQFnoECBYQBg&usq=AOvVaw1f\\_8FzyNmKa6QTxbzu9Oqc](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.globalacademicgroup.com/journals/knowledge%2520review/Patrick.pdf&ved=2ahUKEwjVw9KEt-6IAxVEQfEDHcrDDyEQFnoECBYQBg&usq=AOvVaw1f_8FzyNmKa6QTxbzu9Oqc)> accessed 2<sup>nd</sup> October 2024

<sup>34</sup>CFRN 1999(As Amended), S. 18.

<sup>35</sup>UNICEF, Education, One in Every Five of the World's Out of School Children is in Nigeria <<https://www.unicef.org/nigeria/education#:~:text=One%20in%20every%20five%20of,years%20are%20not%20in%20school>> accessed 20<sup>th</sup> February 2024

<sup>36</sup> CRA 2003, S. 15.

<sup>37</sup> CFRN 1999(As Amended) S. 33, every person has a right to life, and no shall be deprived intentionally of his life... Under Article 6(1) of the United Nations Convention on the Rights of Child, every child has the basic rights like the right to life. The UNCRC does not only recognize the rights of the child but also spells out the duties of State parties in line with the fundamental rights; it recognizes that every child has the inherent Right to Life.

<sup>38</sup> [2019] 5 NWLR (Pt 1666) 518.

<sup>39</sup> E. Ikpoto, Lagos Battles Plastic Pollution Amidst \$2bn Recycling Industry' Punch Newspaper, 30<sup>th</sup> January 2023 <<https://punchng.com/lagos-battles-plastic-pollution-amid-2bn-recycling-industry/>> accessed 19<sup>th</sup> March 2024

<sup>40</sup> F. R. Siddique, 'Children's Right to Environment2020 <<https://www.thedailystar.net/law-our-rights/news/childrens-right-environmental-protection-1911397>> accessed 19<sup>th</sup> March 2024

types of environmental harm.<sup>41</sup> Children's lungs are in the process of growing and developing, making them susceptible to polluted air. Children breathe twice as quickly as adults and take in more air relative to their body weight.<sup>42</sup> Many young children often breathe through their mouth, which takes in more pollutants. They are also closer to the ground, where some pollutants reach peak concentration.<sup>43</sup> Their immune systems are weaker than that of adults and their respiratory tracts are more permeable. They are also at greater risk of viruses, bacteria and other infections during early childhood.<sup>44</sup> According to the UNICEF, around 93 percent of children under the age of 15- 1.8 billion young people breathe air that is so polluted; it risks their health and development.<sup>45</sup> The first 1,000 days of a baby's life are critical period of vulnerability from air pollution. Exposure during this period can alter their physical and cognitive development, which can lead to childhood and adult disorders.<sup>46</sup> In a report by Punch (March 2022), Ojei, a resident of Port Harcourt lamented,

Everywhere in the house is covered by black smoke. Catarrh has become a regular occurrence for my children and me. Even when one spits, it comes out black. If you put your hand inside your nose, it is black. 'Our environment has become so polluted, and it doesn't matter whether or not the windows are closed, air will always find its way into the house.'<sup>47</sup>

This black soot is said to contain arsenic, lead, and mercury which cause headaches, drowsiness, seizures, brain damage, diarrhoea, neurological problems, insomnia, low blood pressure, muscular problems, heart problem and intestinal bleeding, etc.<sup>48</sup> In a report by The Cable<sup>49</sup>, a resident had this to say, 'The beneficiaries are making fortune out of the situation and leaving the poor to die more. The soot is killing us slowly.' Air pollution can also negatively impact the duration of pregnancy and weight of the new-born child. It accounts for 20 percent of new-born deaths worldwide, mostly related to complications of low birth weight and preterm birth.<sup>50</sup> In Ebonyi state, the landscape is punctuated with pockets of abandoned mining pits causing heavy metal poisoning.<sup>51</sup> 'Although we could not explain it, we knew the reason for this ailment cannot be dissociated from our environment<sup>52</sup>,' said a mother whose child escaped from death. She noted that, 'My neighbour's son was sick and convulsing, two days later, he died, he was only three years old.'<sup>53</sup> Water samples collected from the area and tested at the Institute for Agricultural Research, Zaria, and the National Research Institute for Chemical Technology (NARICT) had a lead (Pb) concentration of nearly 408 parts per million (ppm).<sup>54</sup> For context, the U.S. Environmental Protection Agency (EPA) rule requires systems to monitor drinking water if lead concentrations exceed 0.015ppm.<sup>55</sup> Lead exposure can be especially dangerous for children, causing damage to the brain and nervous system, stunted growth and development, behavioural and learning challenges, and hearing and speech problems.<sup>56</sup> In many places, this is a daily occurrence which goes unnoticed.

### **Rights to Rest, Play, Leisure, Recreation and Cultural and Artistic Activities**

Rest, play, recreation and cultural artistic activities are essential part of childhood. Increased exposure to the natural environment enhances a child's learning abilities. Child psychologist Aric Sigman coined the term 'countryside effect,' finding that increased contact with nature improves a child's concentration, reasoning, observational skills, and overall academic performance. Richard Louv's idea of 'nature deficit disorder' contends that children's 'alienation from nature'

---

<sup>41</sup> 'Realizing the Rights of the Child through Environmental Education' UNESCO 20<sup>th</sup> April 2023 <<https://www.unesco.org/en/articles/realizing-rights-child-through-environmental-education>> accessed 19<sup>th</sup> March 2024.

<sup>42</sup> 'Air pollution: A threat to children's rights' UNICEF <<https://www.unicef.org/stories/air-pollution-threat-childrens-rights#:~:text=How%20air%20pollution%20impacts%20children's%20lives%20and%20the%20action%20we%20need.&text=Every%20child%20has%20the%20right,health%20effects%20and%20even%20death.>> accessed 19<sup>th</sup> March 2024

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> D. Naku, 'Illegal refining: Port Harcourt Residents Choked, Remain in Endless Battle with Soot' PUNCH newspaper <<https://www.google.com/amp/s/punchng.com/illegal-refining-port-harcourt-residents-choked-remain-in-endless-battle-with-soot/%3famp>> accessed 20<sup>th</sup> February 2024

<sup>48</sup> *Ibid.*

<sup>49</sup> J. Ojo, 'Rivers residents 'dying slowly' as illegal oil refining worsens soot pollution' The CABLE Newspaper July 21 2021 <https://www.thecable.ng/investigation-rivers-residents-dying-slowly-as-illegal-oil-refining-worsens-soot-pollution/amp> accessed 20<sup>th</sup> February 2024.

<sup>50</sup> 'Air pollution: A threat to children's rights' UNICEF <<https://www.unicef.org/stories/air-pollution-threat-childrens-rights#:~:text=How%20air%20pollution%20impacts%20children's%20lives%20and%20the%20action%20we%20need.&text=Every%20child%20has%20the%20right,health%20effects%20and%20even%20death>> accessed 19<sup>th</sup> March 2024

<sup>51</sup> O. Adelana, 'How Abandoned Mines Endanger Communities Across Nigeria' The CABLE Newspaper 31<sup>st</sup> March 2023 <<https://www.thecable.ng/how-abandoned-mines-endanger-communities-across-nigeria/amp>> accessed 20<sup>th</sup> February 2024.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*

can result in 'diminished use of the senses, attention difficulties and higher rates of physical and emotional illnesses.'<sup>57</sup> Exposure to nature at a young age helps children develop their emotional responsiveness, a quality that contributes to their emotional well-being during adulthood.<sup>58</sup> A research by the United Nations Children's Fund reveals that children's learning abilities and behaviours are enhanced when they study outdoors and that their mental well-being and happiness grows with increasing exposure to nature.<sup>59</sup> Growing evidence suggests that a child's disconnection with nature prevents healthy mental and physical development, as well as responsible stewardship of the environment.<sup>60</sup> Children are increasingly less connected with the environment's health benefits due to environmental pollution.

### **Right to Adequate Standard of Living**

Ecosystems are a major factor contributing to people's economic, cultural, and spiritual well-being. A healthy ecosystem ultimately leads to healthy children, adults, and future generations, and vice versa.<sup>61</sup> Housing, food security and safe drinking water are incidents of clean environment. Unfortunately, the colossal damage done to the environment by mining and mineral exploitation activities have reached an alarming dimension and are the cause of incessant conflicts between communities and the government and oil companies, especially in the Niger Delta of the country. The agitation has led to the formation of activist groups, among them are the Movement for the Survival of Ogoni People (MOSOP), Movement for the Emancipation of Niger Delta (MEND), Niger Delta Volunteer Force (NDVF), Niger Delta People Volunteer Force (NDPVF), and the Tombolo Boys.<sup>62</sup> Thus, achieving the right balance between protection of the environment and wealth creation through mineral development is one of the major issues facing the minerals industry. In these conflicts, the children are the most affected, thereby depriving them of standard social security and peace for their growth. Environmental pollution accounts for food scarcity arising from infertile soil. It has increased poverty level exposing children to hunger. Flooding also opens children to hard life characterized by struggles and lack of childhood flavour.

### **5. The Law and Implementation Gap**

The Constitution of the Federal Republic of Nigeria 1999 as amended, being the *grundnorm* from which every other law takes their root, is the first environmental legal framework. Specifically, environmental protection is one of the fundamental objectives and directive principles of state policy. It provides that, 'the state shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria.'<sup>63</sup> Proactively, the apex court has also settled that the fundamental rights to life and human dignity enshrined in the Constitution are hinged on safe and healthy environment.<sup>64</sup> In the same vein, international treaties on environmental protection are part of the underlying structure for the protection of the environment where they are ratified and domesticated in accordance to the Constitution.<sup>65</sup>

To give effect to the provisions of the Constitution with respect to environmental protection, the Ministry of Environment is the primary regulatory authority for the environment. The Ministry administers the National Environmental Standards and Regulation Enforcement Agency (NESREA) Act 2007 which replaced the Federal Environmental Agency (FEPA) Act. The long title reads: 'An Act to provide for the establishment of the National Environmental Standards and Regulations Enforcement Agency charged with responsibility for the protection and development of the environment in Nigeria; and for related matters.' With the exception of the petroleum industry,<sup>66</sup> the Agency is endowed with numerous functions and powers including the responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology, including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.<sup>67</sup> The Act prohibits acts of environmental pollution with sanctions.

There is plethora of laws enacted to protect the environment in Nigeria, some of them include the Environmental Impact Assessment Act, Harmful Waste (Special Criminal Provisions) Act, The NOSDRA, The PIA etc. At the state level, there are environmental laws and agencies. In Anambra state for example, there is the Anambra State Waste Management

---

<sup>57</sup> K. E. Makuch, Sunya Zaman, and M. R. Aczel, 'Tomorrow's Stewards: The Case for a Unified International Framework on the Environmental Rights of Children. *Health Human Rights*. 2019 Jun;21(1):203-214. PMID: 31239627; PMCID: PMC6586981. Published in National Library of Medicine <<https://pubmed.ncbi.nlm.nih.gov/31239627/>> accessed 1 October 2024.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> A. C. Olufemi, P. O. Bello and Andile Mji, *Conflict Implications of Coal Mining and Environmental Pollution in South Africa: Lessons from Niger Delta, Nigeria*, *African Journal on Conflict Resolution* Vol. 18 No. 1 (2018)

<sup>63</sup> CFRN 1999, (As Amended) S. 20.

<sup>64</sup> Centre for Oil Pollution Watch v NNPC [2019] 5 NWLR (Pt. 1666) 528

<sup>65</sup> CFRN 1999, S. 12.

<sup>66</sup> NESREA Act 2007, S. 8 (g) (n), Oil pollution is the responsibility of the National Oil Spill Detection and Response Agency (NOSDRA).

<sup>67</sup> NESREA Act 2007, S. 2.

Authority Law,<sup>68</sup> which creates the Anambra State Waste Management Authority (ASWAMA). This law regulates waste management and pollution in Anambra state, Nigeria. Indeed, the legal framework of environmental pollution in Nigeria abounds at all levels. The problem has always been enforcement. Despite these laws, open refuse dumps and every other form of pollution are rife in Nigeria. Thus, it is not the absence of laws that encourage environmental pollution, but ineffective enforcement of the laws. This is the very problem bedeviling Nigeria in every sector. It is even worse in environmental matters because people lack awareness or understand the seriousness of environmental degradation and its impacts on the children and the future.

It is important to note that the courts have become proactive. In *John Gbemre v Shell Petroleum Development Corporation & 2 Ors*<sup>69</sup>, the court ruled that the Associated Gas Reinjection Act and (Continuing Flaring of Gas) Regulations of 1984 which allowed flaring of gas were illegal as they violate the right to life and dignity of the human person guaranteed by sections 33 and 34 of the Constitution and Articles 4, 5, and 24 of the African Charter on Human and People's Rights. Similarly, in *Chief Osaro Agbara & Ors v The Shell Petroleum Development Company Nigeria Ltd & Ors*,<sup>70</sup> the court awarded the damage of N15.4 million in respect of the oil spillage which polluted the land. In *Centre for Oil Pollution Watch v NNPC*,<sup>71</sup> the Supreme Court held that issues relating to the environment are public interest matters, therefore any concerned individual can bring an action. In spite of these, there is so much more to be done. At the base is tackling corruption. The menace has become structural that it permeates every aspect of national life. It accounts for weak environmental institutions and failure of implementation of law.

## **6. Conclusion and Recommendations**

We have only one earth, hence the need to protect the environment we live in. Voltaire opined that, 'Men argue. Nature acts. Interestingly, the debate is over, and it is common knowledge that if we do nothing, nature will continue to act without empathy of course. Its consequences as we are already experiencing include health hazards, climate change, depletion of natural resources, mass displacement, strife and death. The government must become honest and willing to tackle environmental pollution by implementing among other actions and policies, the recommendations outlined in this paper, and the existing environmental laws. The children deserve a safe environment. Anything to the contrary is a generational failure of humankind. The following measures are necessary. The split between environmental rights and human rights should be closed. The environmental objectives under Section 20 of the Constitution should be made justiciable to imbue in the government a sense of exigency and legal responsibility. Carbon taxation should be effectively implemented pursuant to the Petroleum Industry Act to encourage energy transition and discourage gas flaring. There are many companies that are responsible for environmental pollution which violate the rights of children. These bodies should be compelled to conduct due diligence throughout their service chain and assess actual and potential risks and ensuring remedies for any environmental pollution. Environmental values should be reflected in the education and training of all professionals involved in education, while acknowledging the close interrelationship between respect for the natural environment and other ethical values. Government should engage stakeholders particularly communities in enlightenment campaigns to educate the people on the impacts of environmental pollution and the need to undertake actions, whether at the household or community level, to safeguard the environment.

---

<sup>68</sup> Anambra State Waste Management Authority Law, 2015.

<sup>69</sup> FHC/B/CS/53/05; (2005) Unreported

<sup>70</sup> [2019] EWHC 3340 (QB)

<sup>71</sup> [2019] 5 NWLR (Pt 1666) 518