
| RESEARCH ARTICLE

Environmental and Human Rights Violations in Ogoniland: Legal Failures in Nigeria and the Global Fight for Justice through U.S. and U.K. Courts

Omotola Osude

LL.B, B.L, LL.M, Centre for Commercial Law Studies, Queen Mary University of London, UK

Corresponding Author: Omotola Osude, **E-mail:** omotolaajamu@gmail.com

| ABSTRACT

This article critically examines Nigeria's enforcement of its human rights and environmental obligations through the lens of the Ogoniland case. It traces the widespread degradation caused by decades of oil exploration by multinational corporations, particularly Shell, and the Nigerian government's complicity in suppressing community-led resistance. The analysis focuses on the environmental damage, human rights violations, and the lack of effective legal remedies within Nigeria. It highlights how the legal system failed to provide justice for affected communities, forcing victims and advocacy groups to seek redress in foreign courts—including in the United States and the United Kingdom—where stronger legal frameworks and transnational litigation tools offered more promising outcomes. By unpacking the implications of these cases, the article sheds light on the growing trend of transnational environmental litigation and calls for legal reforms in Nigeria to strengthen accountability, protect vulnerable communities, and ensure compliance with both domestic and international human rights and environmental standards.

| KEYWORDS

Human rights violations, Legal remedies, Environmental damage

| ARTICLE INFORMATION

ACCEPTED: 02 November 2024

PUBLISHED: 22 December 2024

DOI: 10.61424/ijlss.v1.i1.341

1. Introduction

1.1 The Ogoni Land Case: Background and Key Issues

1.1.1 Historical context of Shell's activities in Ogoni Land

In 1958, oil was discovered in commercial quantities in Ogoni land, and Shell commenced operations in Ogoni land (Frynas, 2001). The economic benefits of oil exploration by these oil companies have come at a very steep liability to the environment and all the local communities where oil exploration has taken place. Decades of oil extraction in Ogoni land have resulted in extreme environmental degradation (United Nations Environment Programme, 2011). Oil spills, gas flaring, and deforestation have negatively affected farmland, polluted water sources, and decimated the fishing activities in Ogoni land, which was a primary source of livelihood for many Ogoni people. Despite all these negative impacts the oil exploration activities had on the people of Ogoni, the revenues the government made from these activities rarely benefitted the people; they remained in poverty and an underdeveloped community.

In 1990, the grievances of the people of Ogoni land gave rise to the establishment of a group named the Movement for the Survival of the Ogoni People (MOSOP), championed by environmental activist, writer,

businessperson, and politician Ken Saro-Wiwa (MOSOP, 1990). MOSOP set out to address all the environmental harm that had been caused by Shell's exploration activities and the collusion of the Nigerian government.

1.2 Human rights violations, including displacement and killings

Several human rights violations were reported to have occurred in Ogoni land, and people who dared to speak up against the activities of Shell were arrested. The Nigerian government's response to the requests made in the Ogoni Bill of Rights presented by MOSOP was welcomed by violent repressions and, a military crackdown on those who dared to voice out; all these were alleged to be supported by Shell, which led to many people being displaced from their homes, destruction of homes and extrajudicial killings by the Nigerian military (Amnesty International, 2017). Ken Saro-Wiwa had constantly spoken up against the issues of the Niger Delta and he was the leader of the movement. He was educated and well-travelled. He knew the potential harm these environmental issues would cause the people of Ogoni land, so he educated them on it. Ken and a few others were arrested by the military and subsequently detained for more than a year. A special military tribunal found Ken and eight others guilty of complicity in the murder of the four people who lost their lives to an angry mob, and on the 10th of November 1995, nine of them were hung to death.

The Ogoni situation escalated because this trial was highly criticised locally and internationally for being unjust and politically motivated (Okonta & Douglas, 2003). The events in Ogoni land attracted international attention to the environmental and human rights abuses associated with oil exploration in Nigeria. The Ogoniland case has become a global symbol of the challenges of holding multinational corporations and governments culpable for their actions (Frynas, 2001).

1.3 Environmental damage, referencing the African Commission judgment and its recommendations

The degradation in Ogoni land is widely recognized as one of the most severe cases of environmental degradation caused by oil extraction in Sub-Saharan Africa. Decades of unregulated oil exploration, primarily by Shell, have led to catastrophic pollution of water sources, farmland, and the ecosystem (United Nations Environment Programme, 2011). As a reaction to these issues, the Social and Economic Rights Action Center (SERAC) and the Center for Economic and Social Rights (CESR) filed a petition against Nigeria before the African Commission on Human and Peoples' Rights in 1996 (SERAC and CESR v. Nigeria, 2001). The petition against Nigeria stated that the Nigerian government had failed to protect the Ogoni community from environmental degradation and human rights abuses caused by oil exploration activities. In 2001, the African Commission ruled in favour of the petitioners and found that Nigeria had violated several provisions of the African Charter namely; right to health (article 16), right to a satisfactory environment (article 24), right to property (article 14) and by implication, the right to life. All these violations were based on the people of Ogoni land facing severe threats to their health, being displaced from their farmlands, their homes and the Nigerian government not taking any steps to remedy all the issues caused by the exploration of oil in Ogoni land, they watched the people suffer health issues with lesser life expectancies and constant illnesses (SERAC and CESR v. Nigeria, 2001).

The African Commission made several recommendations for Nigeria to address these violations, and the recommendations were for Nigeria to immediately cease environmental harm by halting oil-related pollution and practices that is degrading Ogoni land, an environmental clean-up, compensation for everyone affected, establishment of a regulatory framework to monitor and enforce compliance by oil companies (SERAC and CESR v. Nigeria, 2001).

2. Nigeria's Failure to Enforce Recommendations

2.1 Analysis of Nigeria's inaction and systemic challenges, such as corruption

Although this ruling by the African Commission was a landmark one in environmental and human rights law (Amnesty International, 2017). The lack of enforcement mechanisms of the recommendations of the African Commission at the Federal and State level and Nigeria's systemic challenges, including corruption and political interference, have undermined efforts to hold Shell and the government of Nigeria accountable (Human Rights

Watch, 1999). Between the year 2001, when these recommendations were made by the African Commission, and now, Nigeria has had five different governmental administrations, and none of these administrations have fully implemented these recommendations. To date, Ogoni land remains one of the most polluted regions in the Niger Delta region in Nigeria, with little to no progress made toward remediation or justice for the affected communities (United Nations Environment Programme, 2011).

The United Nations Environment Programme (UNEP) was engaged by the Nigerian government in 2006 (United Nations Environment Programme, 2011) to conduct an independent environmental assessment of Ogoni land, this engagement was birthed by preceding years of protests, international pressure, and the landmark 2001 African Commission ruling, the Nigerian government faced growing demands to address the environmental damage in Ogoni land. UNEP was tasked with assessing the scale of environmental pollution caused by oil exploration activities and making recommendations for remediation. The UNEP report was released in August 2011 (United Nations Environment Programme, 2011). The report highlighted that water sources were contaminated with benzene levels 900 times above WHO standards, farmlands were rendered toxic and unfit for agriculture due to oil spills and acidification, and cleanup and restoration could take 30 years with dedicated and consistent efforts (United Nations Environment Programme, 2011). Following the recommendations of UNEP, in 2006 the Nigerian government established the Hydrocarbon Pollution Remediation Project (HYREP) (United Nations Environment Programme, 2011) under the auspice of the Federal Ministry of Environment in Nigeria. However, the remediation process has been slow, ineffective, and marred by corruption, funding delays, diversion of funds, and a lack of transparency (Human Rights Watch, 1999).

Nigeria's inability to enforce the African Commission recommendations reflects strenuous issues of governance failure and ingrained corruption in the system. The Nigerian government has, over the years, failed to develop other sectors and has relied heavily on the revenue from crude oil, so this has led to a conflict of interest, where enforcement efforts are undermined to protect oil revenues and partnerships with multinational oil companies like Shell (Amnesty International, 2017).

2.2 Consequences for the Ogoni community, including ongoing human rights and environmental issues

Farmlands remain unusable, and rivers remain polluted, eliminating primary sources of income for the Ogoni people. Many Ogoni people have migrated to other towns, and toxic chemicals in the air and water have led to birth defects, respiratory diseases, infant mortality, cancer, and skin diseases (United Nations Environment Programme, 2011). It is noteworthy that oil companies, including Shell, have offered jobs to locals as a form of compensation; however, these employment schemes do not address the long-term damage caused by environmental degradation and displacement. To date, the people of Ogoni land still protest and demand justice for the Ogoni Nine. The appointment of the MOSOP leader, Ledum Mitee, to the Nigerian National Petroleum Corporation has been seen as an avenue by the government to silence their protests rather than as an avenue to listen to their concerns.

3. Broader Implications and Lessons Learned

3.1 Environmental degradation in other parts of the Niger Delta (e.g. Oloibiri community)

The case of Ogoni Land is not an isolated incident. Similar patterns of environmental degradation and human rights abuses have occurred across the Niger Delta, particularly in areas like Oloibiri, located in Bayelsa State, serving as the location of the country's first commercial oil well. This event marked the start of Nigeria's reliance on oil exports. After decades of exploitation, the region now faces deserted oil wells, spilt pipelines, and soil infertility, mirroring the issues in Ogoni Land. Following the exhaustion of oil reserves, Oloibiri was abandoned, leaving its residents in poverty, without compensation, cleanup efforts, or rehabilitation of polluted areas.

3.2 References to international litigation

The Ogoni land case set a legal foundation for pursuing environmental justice in Nigeria. It highlighted corporate complicity, government negligence, and the right to a clean environment under the African Charter on Human and Peoples' Rights. The following cases postulate how these principles influenced later litigation against Shell:

Wiwa v. Shell (Wiwa v. Shell, 2009) filed by Ken Saro-Wiwa's son, members of the families of the Ogoni nine, and surviving victims of human rights abuses in Ogoniland in the United States. This case accused Shell of complicity in the execution of Ken Saro-Wiwa and the Ogoni Nine, as well as other human rights abuses. This case was built on SERAC's legal arguments regarding corporate complicity and state collaboration in human rights violations in Nigeria. It highlighted Shell's financial and logistical support to the Nigerian military during the Abacha regime, reiterating claims in SERAC v. Nigeria. The outcome of this case showed how international courts can address violations where domestic systems fail. In this case, Shell Settled for \$15.5 million but denied liability. The case emphasized the need for domestic laws in Nigeria to address transnational accountability and prevent reliance on foreign courts to do the job of the Nigerian justice system fit (Odinkalu, 2003).

Similarly, in Bodo Community v. Shell (Bodo Community v. Shell, 2015), this case was filed in a United Kingdom High Court and sought damages for two major oil spills between year 2008 and 2009 in the Bodo community, Gokana local government, Rivers state, Nigeria, which caused environmental and economic devastation. This case repeats SERAC's focus on environmental damage and the need for compensation and cleanup. It Highlighted Nigeria's weak enforcement of domestic environmental laws, forcing victims to seek justice abroad. Shell paid £55 million in compensation to 15,000 residents, but no restoration measures were imposed, leaving pollution unresolved. This case highlights the need for binding domestic enforcement mechanisms instead of relying on foreign settlements all the time (Amnesty International, 2017).

In Milieudefensie v. Shell (Milieudefensie et al. v. Royal Dutch Shell plc, 2021), this case ordered Shell to reduce CO2 emissions by 45% by 2030. Unlike SERAC, it emphasized remediation it established preventive environmental obligations for corporations. It shifted from reactive remedies to proactive measures, holding Shell accountable for future environmental harm. Shell was legally mandated by the court to reduce emissions (Friends of the Earth, 2021), setting a global precedent for corporate accountability and to resound that the situation need not occur before it can be curbed, although it cannot be completely curbed but when precedents like this are set by the courts these multinationals are aware that the eyes of the law are on them. Nigeria must adopt preventive laws that enforce climate targets and environmental assessments.

3.3 Recommendations for improving Nigeria's legal and regulatory framework

Strengthen Domestic Legal Enforcement- Building on this point, Nigeria has legal frameworks on environmental laws that are either outdated or not amended to reflect current trends, thereby leaving these frameworks redundant. In my view, Nigeria needs to work on these frameworks and implement them to fully reflect contemporary trends and strictly adhere to them. The National Environmental Standards and Regulatory Agency (NESREA) should also be given an expanded role to monitor the upstream oil and gas sector to allow the agency to enforce certain environmental standards that these oil companies should adhere to. I further recommend that, since Nigeria is plagued with numerous environmental issues, specialized environmental courts should be established to ensure faster case resolution and reduced corruption (Amnesty International, 2017).

Reform Cleanup Processes- The Hydrocarbon Pollution Remediation Project instituted by the Nigerian government, but minimal progress has been achieved by this project. It is my view that the government should reconstitute this body, dissolve it, or establish a new body setting out realistic time limits and scopes regarding the phases of completion to enable this clean up recommendation come into fruition. It can also be advised that the Nigerian government should bring in external, independent international bodies to monitor and ensure compliance with cleanup projects (United Nations Environment Programme, 2011).

Promote Community Participation- The Government should involve local residents since they are at the forefront of these constant spillages, degradation, and human rights infringements, they are abreast with these issues and they should be involved in decision making, monitoring and implementation processes related to cleanup efforts, policy reforms and environmental protection in Ogoni land (United Nations Environment Programme, 2011).

4. Conclusion

The Ogoni Land case has exposed the deep-rooted failures of the Nigerian government to protect its people's fundamental human rights. From the violations of the right to life to the displacement of entire communities, the Nigerian government's actions, or lack thereof, have made it clear that these rights are often disregarded when economic and political interests are at stake.

The Ken Saro-Wiwa era reflects the harsh reality of state repression. The execution of SaroWiwa and eight others not only silenced voices that demanded accountability but also demonstrated how the government prioritises economic gains and corporate interests over the well-being of its citizens. The complicity alleged between Shell and the military regime further highlights how corporations and governments can work together to suppress dissent and evade accountability.

This case highlights an urgent need for legal reforms to establish domestic accountability mechanisms that deliver swift justice and enforce environmental laws. It also calls for practical solutions like strengthening cleanup programs, promoting community participation, and introducing specialized courts to handle environmental and human rights violations effectively.

While these reforms cannot happen immediately, they are necessary if Nigeria is to restore the Niger Delta, protect its people, and rebuild its reputation internationally.

References

- [1] Amnesty International. (2017). *A criminal enterprise? Shell's involvement in human rights violations in Nigeria in the 1990s*. Retrieved from www.amnesty.org
- [2] Bodo Community v. Shell [2015] EWHC 3190 (TCC).
- [3] Friends of the Earth. (2021). *Victory against Shell: Court Orders Shell to reduce emissions*. Retrieved from <https://www.foei.org/>
- [4] Frynas, J. G. (2001). Corporate and state responses to anti-oil protests in the Niger Delta. *African Affairs*, 100(398), 27.
- [5] Human Rights Watch. (1999). *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil producing communities*.
- [6] Milieudefensie et al. (2021) v. Royal Dutch Shell plc (2021) case C/09/571932/HA ZA 19-379.
- [7] MOSOP. (1990). *The Ogoni Bill of Rights*.
- [8] Odinkalu, C. A. (2003). Back to the Future: The Imperative of Prioritizing for the Protection of Human Rights in Africa. *Journal of African Law*, 47(1), 1.
- [9] Okonta, I., & Douglas, O. (2003). *Where vultures feast: Shell, Human rights, and Oil in the Niger Delta*. Verso.
- [10] SERAC and CESR v. Nigeria (2001) AHRLR 60 (ACHPR 2001).
- [11] United Nations Environment Programme. (2011). *Environmental Assessment of Ogoniland*. Retrieved from <https://www.unep.org/>
- [12] Wiwa v. Shell, 626 F Supp 2d 377 (SDNY 2009).