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Prof. Damilola Olawuyi SAN

Traversing the Limits of the Law in the age of Artificial Intelligence (AI)"

10 Environmental litigation and access to justice in Nigeria - Eghosa O. Ekhator

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20 Securing Access to Assisted Reproductive Technologies as a Human Right - Dr Jennifer Heaven Mike

34 Legal Accountability in AI Decision-Making - Oghenevwogaga Odjugo

40 Attaining Nigeria's Blue Economy Development Potentials through Stringent Regulation of Illegal, Unreported and Unregulated (IUU) Fishing. - Mutiat Mobolanle Abdulsalam

46 Assessing Policy Gaps In Nigeria's Solid Waste Management Framework. - Oluwaseyi Ebenezer

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Contents

10 Environmental litigation and access to justice in Nigeria - Eghosa O. Ekhator

14 Remedies for Victims of Corporate-Induced Human Rights Violations in Nigeria. - Dr. Oyeniyi Abe

20 Securing Access to Assisted Reproductive Technologies as a Human Right - Dr Jennifer Heaven Mike

26 Lawyer In the News - Prof. Damilola Olawuyi SAN

34 Legal Accountability in AI Decision-Making - Oghenevwogaga Odjugo

40 Attaining Nigeria's Blue Economy Development Potentials through Stringent Regulation of Illegal, Unreported and Unregulated (IUU) Fishing. - Mutiat Mobolanle Abdulsalam

46 Assessing Policy Gaps In Nigeria's Solid Waste Management Framework. - Oluwaseyi Ebenezer

In June 2025, Law Digest will be publishing its 35th edition. To facilitate coverage of legal issues across the African continent, we are calling for papers from practitioners, professionals, academics, organizations, interest groups and persons from both within and outside the African continent.

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FROM THE EDITOR

Our dear readers,

This 1ssue 34 of Africa's Premier Law Journal, Law Digest features a legal "wizard" and transformationist. The edition is captioned: "Prof. Damilola Olawuyi, SAN…. Traversing the Limits of the Law in the age of Artificial Intelligence (AI)".

This special edition celebrates uncommon attributes and achievements of a scholar and international supertaster. Professor Damilola S. Olawuyi, SAN is an international lawyer, policy adviser, and professor of law. He is among world's renowned experts in natural resources, energy and environmental law. He has provided expert advice and opinion on oil, gas, renewable energy, mining, agriculture, infrastructure development and clean technology projects in North America, Europe, Asia, Africa and the Middle East. He is a Deputy Vice Chancellor as well as Chancellor's Fellow and Director of the Institute for Oil, Gas, Energy, Environment and Sustainable Development (OGEES Institute) at Afe Babalola University, Nigeria. He is the UNESCO Chair on Environmental Law and Sustainable Development at HBKU Law School, Doha, Qatar where he teaches energy and environmental law courses. Formerly an international energy lawyer at Norton Rose Fulbright Canada LLP, Calgary, and much more.

This edition also features other practice and academic articles from experts. Oghenevwogaga Odjugo, "Legal Accountability in AI Decision-Making" wherein the author argues that across all sectors, the theme of legal accountability for AI is the same: organizations must anticipate that they will be held responsible for the decisions and actions of their AI systems. Whether through corporate liability in negligence, new regulatory compliance duties, ethical oversight requirements, or precedent-setting lawsuits.

Oluwaseyi Ebenezer's piece focuses on "Assessing Policy Gaps In Nigeria's Solid Waste Management Framework". The author pointed out that Solid Waste Management (SWM) in Nigeria remains a critical issue that demands urgent and strategic intervention.

Mutiat Mobolanle Abdulsalam article offers critical insights on "Attaining Nigeria's Blue Economy Development Potentials through Stringent Regulation of Illegal, Unreported and Unregulated (IUU) Fishing" while Eghosa O. Ekhator's piece focuses on "Environmental litigation and Access to Justice in Nigeria: Implications of the Nigerian Supreme Court's judgment in Centre for Oil Pollution Watch v NNPC". Dr. Oyeniyi Abe centers on a new dimension to right-based discourse. The author critically examined "Remedies for Victims of Corporate-Induced Human Rights Violations in Nigeria". However, in her piece, Dr. Jennifer Heaven Mike's focuses on a rather topical but equally controversial issue of "Securing Access to Assisted Reproductive Technologies as a Human Right".

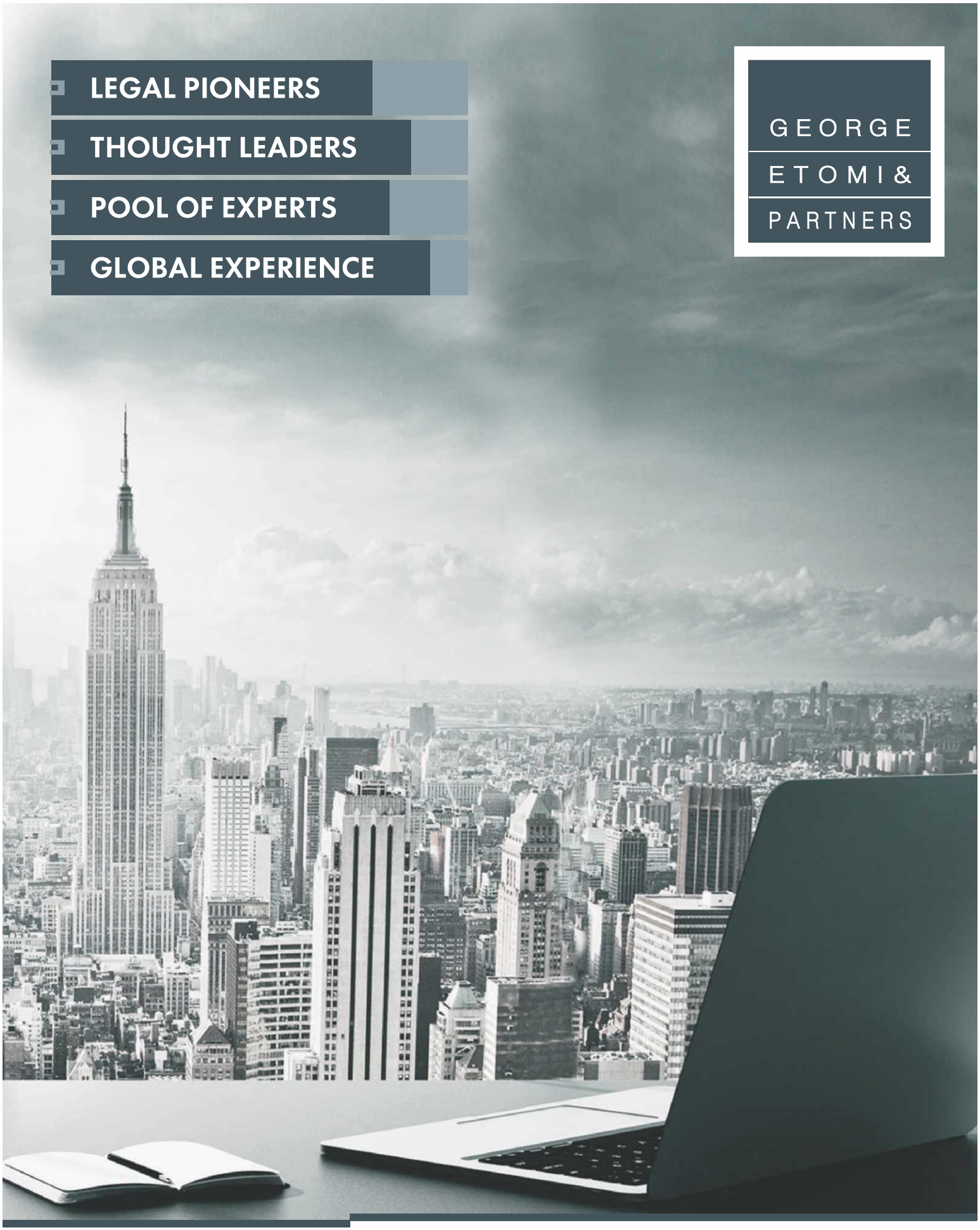
This edition promises to be a good value for your time and money.

Happy reading!!!



Prof. Yemi Oke, SAN, Ph.D, FCArb, FCTI,





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T & A LEGAL @ 15:
Celebrating a Legacy of Excellence, Innovation, and Thriving Partnerships

Our Journey: From a Bold Idea to a Thriving Legal Institution

In 2010, two young and ambitious lawyers, Ayobami Tunde and Seyi Adisa, dared to dream big. Their vision was clear; to establish a law firm that would not only provide exceptional legal services but also redefine the standards of legal practice in Nigeria.

What began as a bold idea during a casual conversation evolved into T & A Legal a thriving legal institution with three offices, a formidable team of over 20 talented lawyers, and an esteemed reputation built on trust, integrity, and excellence.

The firm's humble beginnings trace back to a boys' quarters (BQ) graciously gifted by Chief E. B. Adisa, where Ayobami and Seyi set the foundation of their ambitious dream. Ayobami, with his deep-rooted expertise in real estate, construction, projects and infrastructure, quickly gained recognition for his ability to build lasting relationships and deliver client-focused solutions. With every challenge faced and every milestone achieved, both founders remained steadfast in their commitment to sustainable growth, reinvesting in their vision rather than pursuing short-term gains.

Strategic Growth and Thriving Partnerships

The trajectory of T & A Legal was marked by critical moments of strategic expansion. In 2011, Seyi was appointed as the Principal Private Secretary to the Governor of Oyo State, which led to his move to Ibadan. Despite the physical distance, his partnership with Ayobami remained strong, with both continuing to contribute to the firm's growth in different capacities.

In 2014, Ayobami reconnected with Gbemisola Osibo, a former classmate known for her meticulous approach to legal practice and leadership skills. Recognising her immense contributions to operational efficiency and client service, she was invited to join the firm. With her addition to the firm, the corporate commercial practice of the firm was established and grew over the years to include corporate restructuring, corporate governance, IP & entertainment law, and company secretarial services. By 2018, Gbemisola's strategic insight and legal expertise earned her a well-deserved position as a partner, further strengthening the leadership structure at T & A Legal.



Ayobami Tunde
Managing Partner



Seyi Adisa
Co-Founding Partner

After completing his tenure as a legislator in the Oyo State House of Assembly, Seyi returned to the firm in 2023, bringing with him renewed energy and an expanded vision. His experience in governance and regulatory affairs led to the firm's diversification into new practice areas, including public policy, trade and agribusiness. This expansion has positioned T & A Legal as a forward-thinking firm that continues to adapt to emerging legal and business landscapes.

Core Practice Areas: A Comprehensive Legal Framework

At T & A Legal, we pride ourselves on offering a broad range of legal services tailored to meet the evolving needs of our diverse clientele. Over the years, our practice areas have expanded to include:

- Corporate & Commercial Law



Gbemisola Mosuro
Partner

- Real Estate, Construction, Projects & Infrastructure
- Energy & Power
- Data Protection
- Technology and Communication
- Mergers, Acquisitions and Corporate Restructuring
- Private Equity & Investments
- Public Policy & Regulation
- Tax Advisory & Compliance
- Dispute Resolution
- Probate & Family Law
- Intellectual Property and Entertainment Law
- Debt Recovery & Asset Tracking

Landmark achievements in our core practice areas

REAL ESTATE, CONSTRUCTION, PROJECTS & INFRASTRUCTURE

120 -Hectares Land Reclamation Project - We are providing strategic legal counsel and representation for the development of a 120-hectare man-made island in Lekki, Lagos, valued at $500 million. As the project advances toward the post-reclamation stage, we have successfully secured all necessary government approvals. We continue to offer ongoing legal guidance to the technical committee, which includes experts from various sectors of building and construction. Additionally, we oversee the preparation and administration of all essential contracts and legal documentation, ensuring a structured and compliant execution of the project.

Free Trade Zone in Oyo State -. We assisted our client in forming a strategic alliance with a foreign partner to conduct thorough due diligence for the establishment of a $2 billion free trade zone. Our role included liaising with the Nigeria Export Processing Zones Authority (NEPZA), the Corporate Affairs Commission (CAC), the State Government, and the Ministry of Lands to facilitate the necessary documentation and agreements, ensuring a smooth and compliant process for all parties involved.

Other Notable Transactions:

- Acquisition and development of a business headquarters at Lekki Peninsula Scheme II with a combined transaction value of over N10 Billion.
- Acquisition of a property and construction of a car plant at Ibeju Lekki with a transaction value of about $100 million.
- Acquisition of Alagbon Towers in Ikoyi with a transaction value of over N22 Billion.
- Acquisition of 25 hectares of land in Ogudu Foreshore Scheme valuing over N28.7 Billion.
- Acquisition of a property for construction and subsequent sale of about 80 units of luxury apartments in Ikoyi, Lagos.

MERGERS, ACQUISITIONS & CORPORATE RESTRUCTURING

Acquisition of Assets from Company in Receivership
We facilitated the purchase and acquisition of a manufacturing company's assets worth $11 million in receivership. We managed the process from inception to the successful registration of assets in our client's name. Our role included facilitating negotiations, drafting and reviewing relevant documentation, and coordinating with the Corporate Affairs Commission (CAC), the National Agency for Food and Drug Administration and Control NAFDAC), the Standards Organisation of Nigeria, the Ministry of Lands in Oyo State, and the Federal High Court to ensure compliance and a seamless transaction.

PRIVATE EQUITY & INVESTMENTS

We assisted one of our fintech clients in securing over $1.6 Million in funding to support its operations. Our role involved preparing and negotiating key transaction documents, including Simple Agreements for Future Equity (SAFE), investment side letters, and ESG policies, to facilitate a smooth and well-structured investment process.

INTELLECTUAL PROPERTY AND ENTERTAINMENT LAW

Music Exhibition
In a landmark deal, we were appointed as the sole legal advisory team for music exhibition in Nigeria, the first of its kind to celebrate the nation's rich musical heritage. The firm led the legal framework, including intellectual property (IP) licensing for the featured catalog of songs, negotiating licensing terms, conducting trademark and IP registry searches, and ensuring comprehensive IP protection. Additionally, we drafted and finalised contracts with multiple IP rights owners, ensuring legal compliance and securing all necessary permissions for the exhibition's success.

Succession Planning
Building a Sustainable Legacy



Our firm's approach to succession planning is fundamentally rooted in meritocracy. While we honour our founding partners' legacy with the Firm's name, we recognise that sustained excellence demands attracting and retaining the brightest legal minds, regardless of background. This philosophy has shaped our comprehensive succession strategy, which focuses on identifying and nurturing exceptional talent at every level.

We've established clear, performance-based advancement criteria that create transparent pathways from associate to partnership. This merit-driven system ensures that leadership opportunities are earned through demonstrated excellence in legal practice, client service, and firm development. Our partners regularly engage in talent mapping exercises to identify high-potential lawyers who exhibit both technical prowess and leadership capabilities.

Professional development at our firm extends beyond traditional legal training. We invest significantly in our lawyers' growth through:

- Structured mentorship programs pairing rising talent with experienced partners
- Leadership development initiatives focusing on business acumen and practice management
- Client relationship training to develop the next generation of rainmakers
- Regular exposure to complex matters and significant client interactions

This systematic approach to talent development serves a dual purpose: it provides our lawyers with clear advancement opportunities while ensuring the firm maintains its high standards of legal excellence. Regular performance reviews and feedback sessions keep our lawyers aligned with partnership expectations and help them chart their course to leadership roles.

As we continue to grow, this merit-based succession framework ensures we maintain our competitive edge while fostering a culture where exceptional talent thrives. It sends a clear message to both current and prospective team members: at our firm, career advancement is earned through excellence, innovation, and dedication to client service.

A Unique Brand Built on Trust, Relationships, and Excellence

What sets T & A Legal apart from other law firms in Nigeria is not just our expertise but the core values that define us. Our success is built on three fundamental pillars:
Trust: Clients entrust us with their most critical legal matters because of our unwavering commitment to confidentiality, ethical practice, and excellence.
Relationships: Beyond legal representation, we build thriving partnerships with our clients, treating their success as our own. The strong relationship amongst the partners and the entire team is truly admirable. Every staff member is encouraged and supported to reach beyond the stars and excel in their respective roles.
Excellence: We go beyond providing legal advice—we craft solutions that drive real, tangible results.

We understand that no single case or transaction defines our firm. Instead, the cumulative contributions of every client, every challenge, and every success story has built T & A Legal brick by brick, making it the global brand it is today.

Our Approach: A Client-Centered Legal Practice

At T & A Legal, we are committed to delivering forward-thinking, and dependable legal solutions. Our approach is defined by collaboration, innovation, and a deep understanding of our clients' industries, challenges, and objectives. We craft bespoke legal strategies that not only resolve immediate concerns but also position our clients for sustained success.

With a firm grasp of Nigeria's regulatory and commercial landscape, combined with international expertise, our team of seasoned partners, senior counsel, and associates provides clients with a distinct competitive edge. We prioritise continuous learning and adaptability, ensuring that our legal solutions remain cutting-edge in an evolving business and legal environment. At T & A Legal, clients can trust in our unwavering dedication to excellence, strategic insight, and result-driven advocacy.

What Makes Life and Legal Practice Different at T & A Legal?

The legal profession is known for its demanding nature, but at T & A Legal, we strive to create an environment where our lawyers thrive. Our firm fosters a culture of mentorship, continuous professional development, and a balanced work-life approach.



Lawyers at T&A Legal

Some key differentiators include:

Progressive Work Culture: We believe that productivity thrives in an atmosphere of support and mutual respect. Our lawyers are encouraged to explore new areas of law, contribute to thought leadership, and engage in impactful pro bono work.
Diversity of Practice Areas: Unlike many firms that focus on a narrow range of legal services, we offer a dynamic mix of corporate, regulatory, dispute resolution, and emerging sector advisory.
Commitment to Innovation: We leverage several technology and modern practice management tools to enhance efficiency and client experience.
Global Perspective, Local Expertise: Our lawyers possess global insights while maintaining a firm grasp of Nigeria's legal and regulatory frameworks, ensuring that our clients receive comprehensive and jurisdiction-specific advice.

Our Commitment to the Future

As we celebrate our 15th anniversary, our commitment to excellence, innovation, and client success remains unwavering. Looking ahead, T & A Legal aspires to:

Strengthen its international collaborations and expand its global footprint.
Continue investing in technology-driven legal solutions.
Foster more strategic partnerships across industries.
Mentor and develop the next generation of exceptional legal minds.

With offices strategically located in Lagos, Ibadan, and Abuja, we are well-positioned to meet the diverse legal needs of businesses, individuals, and public sector organisations across Nigeria and beyond.

Final Thoughts: A Legacy in the Making

T & A Legal's story exemplifies the power of innovation and unwavering commitment to excellence in the Nigerian legal landscape. From our founding as a boutique practice, we have evolved into a dynamic force in Nigeria's legal sector, driven by our fundamental belief that exceptional legal service demands more than technical expertise—it requires strategic insight, deep industry knowledge, and strong relationships with our clients.

Our growth trajectory reflects our ability to adapt and thrive amid Nigeria's evolving business environment while maintaining the highest standards of legal practice. Through economic cycles and regulatory changes, we have consistently delivered sophisticated solutions that address our clients' most challenging legal and business objectives. This adaptability, combined with our deep local roots and global perspective, has established T & A Legal as a trusted advisor to both domestic enterprises and international corporations navigating the Nigerian market.

Looking ahead, we are positioning T & A Legal at the forefront of legal innovation in Africa. We are investing in emerging practice areas, embracing technological advancement, and developing the next generation of legal talent. Our vision extends beyond traditional legal services—we aim to be catalysts for economic growth and social progress, supporting our clients as they shape the future of business in Nigeria and across the continent.

This commitment to excellence, innovation, and positive impact drives every aspect of our practice. Whether we're advising on groundbreaking transactions, resolving complex disputes, or providing strategic counsel, our focus remains unwavering: delivering exceptional value while upholding the highest standards of professional integrity. As we continue to grow and evolve, T & A Legal remains dedicated to building lasting partnerships and contributing to the advancement of legal practice in Nigeria.

Environmental litigation and access to justice in Nigeria: Implications of the Nigerian Supreme Court's judgment in Centre for Oil Pollution Watch v NNPC.

Abstract

In Nigeria, the activities of companies operating in the oil and gas sector (which is predominantly located in the Niger Delta region) have had negative impacts on the health, well-being and human rights of people living there. Also, access to justice for many of the environmental victims in the Niger Delta is a herculean task and this is exacerbated by the strict rules of legal standing (locus standi) inhibiting the ability of many victims to institute legal action against government and companies.

However, things appear to be changing in Nigeria. In a judgment in 2018 by the Supreme Court in Centre for Oil Pollution Watch v NNPC, the court liberalised locus standi in environmental matters and expressly relied on the provisions of the article 24 of the African Charter on Human and People's Rights, section 33 (1) of the Nigerian constitution and section 17(4) of the Oil Pipelines Act to hold that the right to environment can be justiciable in Nigeria and hence, these instruments recognised the fundamental rights of Nigerians to a clean and healthy environment. Thereby, enhancing access to justice for environmental victims in Nigeria.



Eghosa O. Ekhator
Associate Professor, University of Derby, UK

Introduction

Litigation has been relied upon by several stakeholders including non-governmental organisations (NGOs), activists, community groups, oil-producing communities and environmental victims as a tool or strategy to hold government and companies accountable for environmental injustices arising from the Nigerian oil and gas sector. Furthermore, cases have been instituted in several jurisdictions including home states of companies, the host state (Nigeria), sub-regional and regional courts amongst other fora to enhance access to justice for environmental victims in Nigeria.
Overall, the cases filed by environmental victims in Nigeria exemplify some of the difficulties in accessing environmental justice in domestic courts. Some of the difficulties linked to litigation in Nigeria include:

limited resources of litigants, delays in the judicial process, the strict requirement of locus standi proof, and the overreliance on common law torts such as trespass, negligence and nuisance in suits by litigants (in the absence of an effective framework on oil pollution control or litigation), amongst others. [1]

Furthermore, many environmental victims in Nigeria are poor and lack financial means and expertise to tackle companies[2]. Notwithstanding the plethora of cases filed against the oil companies operating in Nigeria (and governmental agencies), environmental degradation and environmental injustices associated with the operations of companies in the Nigerian oil and gas sector remain rife.

Access to justice and environmental litigation in Nigeria

In Nigeria, recent developments which portends improvements in access to environmental justice is in connection with the principle of locus standi. Also, in Nigeria, it is an obligatory requirement for claimants to be coated with locus standi (sufficient interest) as a pre-requisite to institute public interest suits regarding environmental damage in the oil industry[3]. In Senator Adesanya v. The President of Nigeria, the Supreme Court of Nigeria held that 'standing will only be accorded to a plaintiff who shows that his civil rights have been or are in danger of being violated or adversely affected by the act complained of.'[4]

Most of the environmental litigation in Nigeria arose from the oil and gas

industry and environmental NGOs played a major role in the various activities geared towards improving environmental justice for victims (including women and oil-producing communities) in the Niger Delta[5]. However, the locus standi principle affects the ability of NGOs to institute action in Nigerian courts[6]. Fortunately, there has been recent judicial pronouncement on locus standi for environmental NGOs in instituting legal action on behalf of victims of environmental injustice in Nigeria. In 2018, the Nigerian Supreme Court in the Centre for Oil Pollution Watch (COPW) v. Nigerian National Petroleum Corporation (NNPC)[7] held that environmental NGOs have the locus standi to institute environmental cases in Nigeria, thereby improving access to environmental justice and promoting sustainable development for litigants, victims (including women), and communities in Nigeria.[8]

Implications of the COPW Case for enhancing access to justice and environmental litigation in Nigeria

COPW is a Nigerian-based and registered NGO and one of its key aims is ensuring the protection, restoration and remediation of environments impacted by oil spills[9]. COPW sued NNPC in 2004 in the Federal High Court of Nigeria in Lagos. COPW sued for the remediation, restoration and reinstatement of the damaged environment in the Acha community in the Abia State of Nigeria where old and ruptured NNPC damaged the lands and environment of the Acha Community. NNPC tried to contain the oil spill, but this was unsuccessful. NNPC argued that the oil spill was caused by sabotage by the Acha community and COPW averred that NNPC was negligent. In court, NNPC argued that COPW lacked the requisite legal standi (locus standi) to institute the suit on behalf of the Acha Community and the Federal High Court struck out the case. COPW appealed this decision, and the Nigerian Court of Appeal affirmed the decision of the Federal High Court and thus also this appeal. Arguably, the Court of Appeal was bound by judicial precedence on locus standi in environmental issues in Nigeria, which is that it is virtually impossible for NGOs to institute lawsuits on behalf of victims in environmental matters in Nigeria.[10] COPW then appealed to the Nigerian Supreme Court, and this is the case, that is the focus of the analysis in this piece.

Prior to the judgment in the COPW case, 'NGO involvement in public interest litigation in Nigeria was seriously hindered by the doctrine of locus standi. Nigerian courts were reluctant to rule that NGOs had the requisite legal standing to institute court cases especially in human rights and environmental issues.[11] In the COPW case, due to the innovative nature of the suit and its implications for legal standing for NGOs in instituting cases on behalf of victims (including local communities suffering from environmental degradation) in Nigeria, the Supreme Court invited five amici curiae to address it on the issue 'Extending the scope of locus standi in relation to issues on environmental degradation: the case of NGOs.[12] Two of the amici curiae argued in favour of retaining the existing locus standi criteria in Nigeria including in environmental issues.[13] On the other hand, three amici curiae argued in favour of extending locus standi criteria to allow NGOs the ability to institute cases for the protection of the environment in Nigeria.



SabiLaw

The Nigerian Supreme Court in its judgement was swayed by some of the arguments made by the amicus curiae in favouring the relaxation or liberalisation of the locus standi rules in Nigeria. For example, Justice Nweze stated that:

English courts have extended the meaning of locus standi... The English courts are not alone on this development. Other common law jurisdictions have followed that pattern. In India, the Supreme Court, without any statutory enactment, but rather for the overall need to do justice, generally liberalized the traditional rule on locus standi with respect to environmental degradation, since, in the court's view, maintaining a clean environment is the responsibility of all persons in the country. [14]

Some of the Justices in COPW overtly referred to sections 20 and 33 of the Nigerian Constitution, 17(4) Oil Pipelines Act and Article 24 of the African Charter on Human and Peoples' Rights to hold that the right to a clean and healthy environment in recognised under Nigerian law. This case has relaxed locus standi of NGOs in environmental matters in Nigeria thereby enhancing access to environmental justice and promoting sustainable development for litigants, victims, and communities in Nigeria.[15] Arguably, the judgment in this case has made socio-economic rights justiciable and enforceable in Nigeria. Hence, dependence on the African Charter and the COPW case can be a tool for promoting access to environmental justice especially for local communities bearing the brunt of environmental injustices in Nigeria.

Another innovation from the COPW case is that the Nigerian Supreme Court recognised that courts in Nigeria, based on sections 16(2), 17(2)(d)(3), and 20 of the 1999 Constitution, section 17(4) of the Oil Pipelines Act and the Oil and Gas Regulations, are 'under a duty to protect the environment, in appropriate cases, and would fail in that duty if they do not facilitate the protection that these laws have put in place.[16] Some scholars argue that this pronouncement by the court in COPW is arguably a 'clear directive from the apex court to the relevant stakeholders in environmental protection regime in the country.[17] This will be akin to 'greening' the existing human rights provisions of the constitution and laws to enforce environmental justice in Nigeria.[18] For example, NGOs and individuals are no longer constrained with rigid rules of standing in environmental adjudication in Nigeria. Hence, NGOs, environmental victims, individuals, and communities can now file cases in Nigerian courts as means to ventilate their rights based on the COPW case. This has implications for environmental litigation in Nigeria especially for NGOs via public interest litigation for the public good.[19] Hence, Ekhator and Okumagba argue that with adequate engagement, the COPW case will enhance the involvement:

of individuals and communities in environmental justice in Nigeria. Environmental public interest litigation takes more prominence in Nigeria because many of the government agencies that are responsible for environmental protection and remediation do not live up to that legal responsibility. Thus, litigation by public-spirited individuals and NGOs or pressure groups can be a strategy to ensure that governmental agencies live up to their environmental protection responsibility in Nigeria. [20]

Recommendations

Nigeria can adapt lessons from Kenya's experience in environmental laws and environmental litigation.[21] For example, in Kenya, locus standi is available for victims of environmental injustices premised on the right to environmental provision in the Kenyan constitution.[22] Thus, to ensure that the COPW judgment is not reversed or limited by the Nigerian Supreme Court in the future, there 'is the need to translate this judicial breakthrough into a substantive legislative provision in order to remove it from the vagaries of judicial interpretations.[23] Thus, the liberalisation of locus standi arising from the COPW case should be explicitly enshrined into law in Nigeria and this will arguably have positive impacts on improving access to justice for environmental victims and the reliance on public interest litigation in environmental matters in Nigeria.

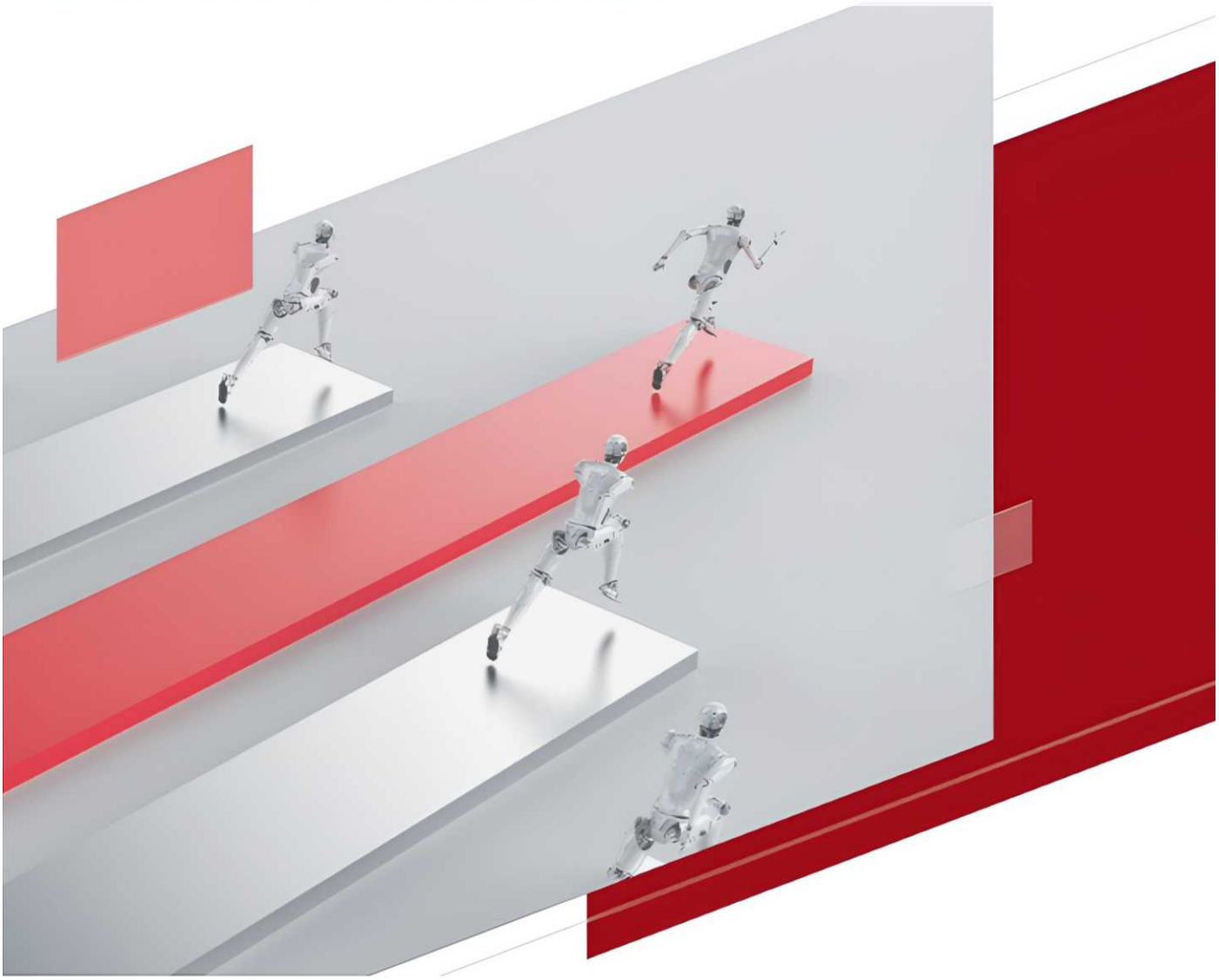
The Nigerian government should enforce laws and regulations and ensure that companies' activities do not have negative impacts on people and the environment in the country. There exist a plethora of environmental laws and policies and wide array of laws and regulations governing the Nigerian oil and gas industry. Unfortunately, there is generally poor enforcement and implementation of environmental laws and oil and gas regulations in Nigeria. An approach of promoting good governance in Nigeria's oil and gas industry by the government would show the political will to enforce environmental laws and regulations and compel companies to live up to their environmental justice responsibilities.[24]

Conclusion

This paper focuses on the COPW case and its implications improving access to justice for environmental victims and recourse to environmental litigation. Arguably, the case will have positive implications for the reliance on public interest litigation in environmental issues in Nigeria. However, litigation is not a fool-proof strategy and hence the Nigerian government (including environmental agencies) must exhibit the political will to enforce environmental laws in the country and provide tools or measures to enhance access to justice for environmental victims in the country. Furthermore, companies must live up to their legal responsibilities and ensure that their operations do not lead to or exacerbate environmental injustices in Nigeria. Notwithstanding the criticism that the COPW case will lead to an avalanche of cases in courts, this judgment enhances the ability of environmental NGOs to institute cases on behalf of environmental victims in Nigeria.[25]

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Remedies for Victims of Corporate-Induced Human Rights Violations in Nigeria.

Nigeria, one of Africa's largest economies, has several thriving sectors of the economy including the oil and gas, mining, agricultural, and telecom industries. These industries generate high levels of contribution towards the country's GDP; however, they also cause serious violations of human rights through the degradation of the environment, abuse of labor rights, displacement of local populations, and abuse of the rights of local populations.[1] Multinational corporations (MNCs) have been identified with widespread abuse of human rights. For decades, Nigeria has been the subject of complex environment, human rights,[2] and social issues caused by business activities specifically from these sectors.[3] Securing justice for victims of corporate-induced human rights violations has become an arduous and formidable challenge due to power asymmetry, imbalances, and the overwhelming influence of corporate actors over local communities.[4]



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Despite the presence of various avenues for access to remedies under the Nigerian legal structure, remedial mechanisms are generally marred by loopholes in the law, power asymmetry, access to evidence and systemic disparities between corporate actors and local communities. This essay addresses the institutional and legal avenues for access by the victim under Nigerian law, including the non-judicial and the judicial avenues. It also addresses international structures for greater access to justice and accountability.

Access to Effective Judicial and Non-Judicial Remedies

Access to remedies is a fundamental component of the business and human rights (BHRs) debate. Not only must victims of corporate induced human rights violations have access to effective remedial mechanism, but businesses must also integrate access to justice as part of their due diligence process. For instance, corporate internal (and external) grievance mechanisms offer a veritable source for complaints to be immediately addressed before there is breakdown of relationship between companies and their host communities. These grievance mechanisms will be an avenue to get feedback about their activities.

Nigeria's law mandates businesses to contribute to an environment restoration fund before the commencement of any project, to safeguard any corporate



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obligations towards the host community or other unforeseen events, including human rights impact.[5] The failure of corporate actors to comply with environmental laws and restoration efforts complicates access to remedy. Thus, states are enjoined to ensure strict compliance and punitive actions against businesses that refuse, fail and neglect to contribute to ecological reintegration and rehabilitation requirements. These obligations must include mandating businesses to set aside some financial tools, such as host community development trust fund,[6] or some form of corporate guarantee before the commencement of the project.

On the global level, the United Nations Guiding Principles on Business and Human Rights (UNGPs),[7] unanimously endorsed by the United Nations Human

Rights Council, rests on three pillars: the State duty to protect against human rights violations; the corporate responsibility to respect human rights in their operations; and greater access by victims to effective remedy, both judicial and non-judicial, for human rights violations. The UNGPs thus becomes instructive as a rights-based approach to safeguarding access to justice in Nigeria. Principle 25 of the UNGPs mandates that states have a duty to take measures - including judicial, administrative, and legislative actions - to protect the public from human rights violations committed by businesses. In turn, businesses have an obligation to comply with all applicable laws, including human rights standards. To prevent adverse human rights impacts, businesses must proactively adhere to human rights principles through deterrence, precautionary measures, mitigation efforts, and sustainable practices. Emphasizing prevention is preferable to relying solely on mitigation efforts.

Principle 22 of the UNGPs provides that "where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes." Therefore, when businesses discover that they have caused environmental harm, such as through gas flaring, pollution, or resource depletion, they must address these violations through legitimate remediation efforts. For example, the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN) (2018) outlines the requirements for environmental management and pollution control throughout the petroleum production process. Similarly, the Petroleum Industry Act (2021) includes environmental measures designed to support host communities and mandates that companies remedy any adverse human rights impacts resulting from their operations. This includes clean-up efforts, cooperation with state agencies to document pollution, and compensation for victims of corporate activities. Consequently, businesses must adopt comprehensive strategies and procedures that account for all ecological, social, and economic risks associated with their projects and operations, fostering positive social and environmental outcomes.

Efforts to domesticate the UNGPs in Nigeria have been reflected in the National Action Plan on Business and Human Rights,[8] which was incorporated as a chapter in the broader National Action Plan for the Promotion and Protection of Human Rights (2024–2028). However, despite the increasing focus on BHRs policy formulation in alignment with the UNGPs, Nigeria's legal framework remains underdeveloped. The country still lacks comprehensive laws, cohesive policies, and harmonized institutions to effectively implement BHRs standards. In this context, non-judicial remedies through administrative agencies, corporate grievance processes, and international bodies play a crucial role by offering a balanced and alternative avenue for redress. National Human Rights Institutions (NHRIs), for example, are instrumental in strengthening both judicial and non-judicial mechanisms. Many NHRIs are mandated to investigate corporate-related human rights complaints and address them through various approaches, including mediation, conciliation, legal aid, stakeholder training, and other culturally appropriate, rights-compatible processes.

Challenges of Judicial Remedies in Nigeria

In Nigeria, judicial remedies are hindered by a lack of regulatory clarity and numerous systemic challenges. Many cases face significant obstacles, including the high cost of litigation, which disproportionately affects victims from marginalized communities who often lack the financial resources to pursue justice. Additionally, many victims struggle to secure legal representation due to financial and



EIE Nigeria



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institutional barriers. Moreover, inadequate support for prosecutors limits their ability to effectively investigate and prosecute corporate-related human rights abuses. Addressing these deficiencies is essential to ensuring fair and effective judicial remedies for victims of corporate misconduct.

In the seminal case of Gbemre v. Shell Petroleum Development Company, NNPC & Attorney General of the Federation,[9] the applicant argued that Shell's activities in their community had violated their right to a clean, poison-free, and healthy environment. Specifically, the applicant contended that Shell's continuous gas flaring in their local community constituted a violation of their fundamental rights to life and human dignity, as enshrined in Sections 33(1) and 34(1) of the Nigerian Constitution. These rights are further reinforced by Articles 4, 16, and 24 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.[10] The court strongly condemned the respondents' actions and ruled that Shell's ongoing gas flaring in the Iwherekan community constituted a gross violation of the applicants' rights to life and human dignity as guaranteed by the Nigerian Constitution. This case remains a pivotal decision in Nigeria's BHRs jurisprudence, highlighting the urgent need for stronger environmental protections and corporate accountability. However, rather than comply with the court's judgment and cease gas flaring, the state actively obstructed enforcement efforts. When the stay of execution expired, the applicants appeared in court, but the defendants and their representatives were absent. Soon after, it was revealed that the trial judge had been removed and transferred to a High Court in northern Nigeria, and the case file had mysteriously gone missing.[11] Further complicating matters, when Shell and NNPC appealed on jurisdictional grounds, court staff—without notifying the applicant or their lawyer—deceptively adjourned the case.[12] Although the presiding judge later pledged to investigate and hold those responsible accountable, the issue was never addressed publicly. This situation exemplifies how, in weakly governed jurisdictions, bureaucracy and administrative bottlenecks often prevent litigants from obtaining justice in national courts. A similar pattern emerged in Ogale v. Shell,[13] where the plaintiff sought to establish, through scientific evidence, that an oil spill had contaminated their land. However, the court dismissed the claim, finding Shell's expert witness more credible than the plaintiff's. Given Shell's financial resources and technical expertise, the company had the advantage of hiring professional experts and influencing the proceedings in its favor, underlining the systemic imbalance in corporate litigation, where well-funded multinational corporations can leverage their financial and technical power to shape judicial outcomes to their benefit. The expectation that plaintiffs - often poor indigenous communities - must provide scientific proof of corporate environmental pollution should come to an end. Increasingly, companies are facing growing demands for transparency and accountability in their operations. Providing access to information is a keyway for corporations to demonstrate their commitment to these principles.[14] Extractive companies, in particular, have a duty to both the public and local communities to regularly disclose relevant information about their activities. This information should be communicated in a clear and accessible manner, using language that is easily understood by their host communities.

Statutorily, the Nigerian Constitution



Amnesty International

guarantees fundamental human rights, including the right to life (Section 33), dignity (Section 34), and freedom from discrimination (Section 42). Other Statutory laws such as the Petroleum Industry Act (2021), Environmental Impact Assessment Act (1992), and the Companies and Allied Matters Act (2020) establish obligations for corporate entities, but enforcement remains weak. The National Environmental Standards and Regulations Enforcement Agency (NESREA) and the Nigerian Extractive Industries Transparency Initiative (NEITI) regulate corporate activities, but their effectiveness is often compromised by bureaucratic inefficiencies. These agencies oversee environmental compliance but struggle with enforcement, particularly in cases involving multinational corporations such as Shell and Chevron, which have historically evaded liability for environmental damage in the Niger Delta. Despite the plethora of laws, victims of corporate human rights violations face lack of access to judicial remedies, including the following:

a. Lack of legal standing: Courts sometimes dismiss cases on procedural grounds, denying victims access to justice. In Nigeria, the doctrine of legal standing has been a major obstacle in public interest and human rights litigation, as courts often impose restrictive interpretations that prevent individuals and groups from seeking justice. Nigerian courts have historically adhered to a narrow approach to locus standi, requiring plaintiffs to show a direct and personal injury. This restrictive stance has hindered environmental, human rights, and public interest cases. In Oronto Douglas v. Shell Petroleum Development Company,[15] the Supreme Court dismissed the case brought by environmental activist, Mr. Douglass who sought to challenge Shell's non-compliance with environmental impact assessments, on the ground that Douglas had no locus standi since he was not personally affected by the environmental damage. However, in Centre for Oil Pollution Watch v. NNPC,[16] the Supreme Court adopted a more liberal approach. It held that an environmental advocacy group had locus standi to sue NNPC for environmental degradation.

b. Corporate-State Alliances: Multinational corporations often have close ties with the Nigerian government, leading to regulatory capture and reluctance to hold corporations accountable. The inability of the state to enforce the decision in Gbemre's case attests to this. Similarly, the execution of environmental activist Ken Saro-Wiwa and eight other Ogoni leaders by Nigeria's military regime followed their protests against Shell's environmental destruction in the Niger Delta. Evidence later revealed that Shell had collaborated with the Nigerian military, providing financial and logistical support to suppress the demonstrations.[17] In SERAP v. Federal Republic of Nigeria & NNPC[18], SERAP sued the Nigerian government and the Nigerian National Petroleum Corporation (NNPC) over environmental pollution and corruption in the oil sector. The ECOWAS Court found that the Nigerian government had failed to regulate oil companies adequately, leading to severe environmental and human rights violations.

c. Lack of awareness: A significant challenge in holding corporations accountable for human rights violations in Nigeria is the lack of awareness of legal remedies among victims, particularly in marginalized and rural communities. Many affected individuals remain unaware of their rights or the legal avenues available to seek redress, thereby allowing corporations to evade responsibility for environmental degradation, labor rights abuses, and other human rights violations. This is due in part to limited legal education, as a result many communities lack knowledge of environmental and human rights laws. Additionally, victims, especially in rural areas, often do not know how to engage legal representatives, while corporations sometimes suppress information, discouraging affected communities from seeking legal redress.

To address these challenges, it is imperative for the state to uphold the duty to protect human rights of its citizens against corporate induced human rights violations by ensuring the following:

- Enact a binding human rights due diligence law to hold corporations accountable for violations.



Behind the logos

- Increase funding and autonomy for the National Human Rights Commission (NHRC) to investigate and act on corporate abuses.
- Establish a National Business and Human Rights Ombudsman to provide an independent grievance mechanism.
- Mandate transparency in corporate grievance mechanisms to ensure fairness and accessibility for victims.
- Advocate for the ratification of the Binding Treaty on Business and Human Rights, currently under negotiation at the United Nations.

Access to remedies for victims of corporate-induced human rights violations in Nigeria remains a significant challenge due to weak enforcement, legal barriers, and corporate impunity. While judicial and non-judicial mechanisms exist, their effectiveness is limited by structural deficiencies. Strengthening legal frameworks, enhancing regulatory oversight, and increasing access to regional and international accountability mechanisms are crucial steps toward ensuring justice for victims. Without comprehensive reform, corporate actors will continue to operate with impunity, perpetuating human rights violations in Nigeria.

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Securing Access to Assisted Reproductive Technologies as a Human Right.

Abstract
The concept of securing assisted reproductive technologies (ART) as a human right is gaining recognition in contemporary discussions surrounding reproductive health. This abstract explores the ethical, social, and legal dimensions of ART, emphasizing that access to these technologies is fundamental to achieving reproductive autonomy, healthcare equality and the guarantee of human rights. As infertility affects millions globally, including marginalized populations, ensuring equitable access to ART can empower individuals and couples to make informed choices about family planning. The recognition of ART as a human right challenges existing healthcare disparities and prompts governments and institutions to implement policies that support reproductive rights. Framing ART within the context of human rights also advocates for comprehensive reproductive healthcare that respects individual choices to ART and promotes overall well-being.

Keywords: Assisted Reproductive Technologies (ART), Human Rights, Reproductive Justice, Africa, Infertility, Sustainable Development Goals, Gender Equality, Health Rights


Tori News

Introduction

Taekwono is a 47-year-old married woman cherishing the idea of starting a family since the beginning of her marital journey. From the moment she said 'I do,' 17 years ago to Sirago, she envisioned a life filled with the laughter and joy that children bring. Unfortunately, as the years have slipped by, her dreams of motherhood have remained unfulfilled. Despite her fervent hopes and desires, Taekwono has not been able to conceive, leaving her with a sense of deep disappointment and heartache. As a dedicated primary school teacher, she pours her energy and passion into her students, finding fulfillment in helping them learn and grow. However, this fulfilling career also comes with financial constraints that make pursuing options like Assisted Reproductive Technologies (ART) seem beyond her reach. Faced with the reality of her situation, Taekwono struggles with the emotional weight of her unfulfilled dreams, grappling with the societal expectations of womanhood and motherhood, while seeking solace in her career and the positive impact she has on the children in her classroom. Sirago, her husband, maintains a strong and supportive demeanor to comfort his wife during this challenging time. However, beneath his brave facade lies a deep sadness; he grapples with the emotional void created by their inability to have children. The absence of a child weighs heavily on both of them, leaving them feeling incomplete as they long for the joy and fulfillment that parenthood could bring to their family.
The recognition of ART as a human right is a crucial step toward advancing reproductive justice and equity, particularly in regions like Africa where access to reproductive health services remains limited.[1] ART, including procedures such as in vitro fertilization (IVF), artificial insemination, and surrogacy, can provide a pathway to parenthood for Taekwono, Sirago, individuals and couples facing infertility, a condition that carries social, emotional, and economic burdens.[2] Despite the potential benefits, access to ART in many African countries is constrained by cultural, economic, legal, and infrastructural barriers.[3] These challenges exacerbate inequalities, particularly for women, and hinder the realization of the right to reproductive health and development.

This paper explores the intersection of ART and human rights, arguing that access to ART should be considered an integral part of the human right to health and development, as outlined in international human rights

frameworks, including the African Charter on Human and Peoples' Rights and the United Nations' Sustainable Development Goals (SDGs).

By addressing the legal, economic, and social barriers to ART access, this paper advocates for a more inclusive approach to reproductive health that ensures ART is available to all, regardless of income, gender, or geographical location. The paper concludes that securing ART as a human right is essential not only for individual empowerment and gender equality but also for the broader development and well-being of African societies. In doing so, it contributes to the global conversation on reproductive justice and human rights in the context of advancing sustainable development and human dignity.

Conceptual Framework: Human Rights and Reproductive Health

Human rights encompass the foundational principles and ideals that guide the protection and promotion of individual dignity and justice universally. It is based on key concepts such as universality,[4] solidarity, inalienability, and indivisibility of rights, asserting that all individuals should possess rights regardless of nationality, ethnicity, or socio-economic status.[5] Human rights principles emphasize accountability and the role of states in ensuring that rights are respected, protected, and fulfilled, while also recognizing the importance of opportunities for individuals to assert their rights. Furthermore, the framework integrates mechanisms for empowerment, highlighting the necessity of legal, and institutional, approaches to promote a just society where human rights are safeguarded and guaranteed for all.

A central aspect of human rights is the right to health, including reproductive health. The right to reproductive health is a fundamental aspect of human rights, ensuring that individuals have the ability to make informed choices regarding their reproductive lives, access to necessary healthcare, and the opportunity to take certain steps toward their reproductive outcomes.[6] This right fundamentally encompasses access to comprehensive reproductive health services, including family planning, prenatal care, contraception, and safe abortion where legal, as well as education about reproductive health.[7] Protecting this right is essential for gender equality, as it allows individuals—particularly women and marginalized groups—to manage their reproductive lives and contribute fully to society.

It is within this context of health rights that this paper advocates for broader access to ART for women, not as a separate healthcare concern but within the framework of guaranteeing healthcare in general.

The World Health Organization defines health within a broader context, that considers health as a comprehensive state of well-being that encompasses not only the physical aspects of health but also the mental and social dimensions.[8] This definition emphasizes that reproductive health is not just the absence of illness or disability but a holistic approach to health that involves all matters related to the reproductive system, including its functions and related processes. This understanding highlights the importance of access to appropriate reproductive healthcare services, education, and support that enable individuals to make informed decisions about their reproductive lives. Reproductive health rights are grounded in the full recognition and protection of women's human rights, advocating for their autonomy and the power to make choices about their bodies and reproductive lives.[9] Reproductive healthcare calls for not only access to healthcare and reproductive services but also addresses underlying social and economic inequalities that hinder women and girls from experiencing true freedom and justice in their reproductive health choices.[10] This approach seeks to ensure that all individuals can exercise their rights without discrimination or coercion, fostering an environment where their needs and experiences are fully acknowledged and respected.

Access to ART as a Core Aspect of Reproductive Healthcare and Women's Rights

The concept of human rights is rooted in the idea that individuals should have the freedom and opportunity to fully develop their potential in all aspects of life, including health, education, and socio-economic well-being. The right to health is a fundamental human right, recognized in several international and regional human rights frameworks. In the



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context of reproductive health and ART, the right to health as outlined in the International Covenant on Economic, Social, and Cultural Rights (ICESCR), provides a critical framework for ensuring that individuals, including women, have access to reproductive health services. The right to health is outlined in Article 12 (1) of the ICESCR requires '[t]he States Parties to the present Covenant [to] recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.' This provision envisions the highest attainable standard of health as a right for everyone, which should be pursued through national policies and international cooperation. It also implies a state's duty to ensure that health systems are accessible, equitable, and effective in meeting the health needs of its population. The Committee on Economic, Social and Cultural Rights (CESCR), which oversees the implementation of the ICESCR has interpreted the right to health in broader terms to include:[11]

Availability: Sufficient functioning public health and medical services, facilities, goods, and services.

Accessibility: Health services must be accessible to all individuals without discrimination, and the costs of these services must be affordable.

Acceptability: Health services should be respectful of the culture of individuals, non-discriminatory, and of quality.

Quality: Health services must meet certain standards, ensuring that they are safe and effective.

In the context of ART, these principles suggest that states have an obligation to ensure that reproductive health services, including assisted reproductive technologies, are available, accessible, and of sufficient quality to meet the needs of individuals.



Cloudnine Fertility

Furthermore, the right to health, as outlined by the Committee on the Elimination of Discrimination Against Women (CEDAW) (Articles 12, 16, and 10) include the right to make decisions about one's reproductive health and to access the necessary technologies and services to fulfill those rights.

The African Charter on Human and Peoples' Rights (1981) also emphasizes the right to health in Article 16. This article specifically addresses the right to health, by stating that '[e]very individual shall have the right to enjoy the best attainable state of physical and mental health.' This provision is the most direct recognition of the right to health in the African Charter, implying that African states have an obligation to ensure access to health services and to take steps to improve the health and well-being of their citizens.

Article 18 of the African Charter which recognizes the protection of the Family adds impetus to reproductive healthcare and the need to secure ARTs. This article addresses the family as a fundamental unit of society and emphasizes the state's duty to protect and strengthen the family unit. It indirectly supports reproductive health rights by stressing the importance of family-oriented goals and welfare, which encompasses reproductive health and access to related services.

In the Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), the 'right to health' for women explicitly includes their sexual and reproductive health, guaranteeing their right to control their fertility, decide on the number and spacing of children, choose contraception methods, and access family planning education; essentially ensuring women have access to comprehensive reproductive healthcare services.[12] In the same manner, the African Union's (AU) Agenda 2063 which focuses on human development, includes improving access to healthcare, promoting gender equality, and addressing reproductive health issues.

The Nigerian 1999 Constitution does not explicitly enshrine the right to health in the same way as the African Charter or ICECSR. However, it provides a framework for ensuring the well-being

of its citizens in Section 16 which guides the government and authorities to 'direct its policy towards ensuring... the health, safety, and welfare of all people.' Section 17(3) also mandates the state to make provisions for basic needs, including health services and consequently imposes an obligation on the government to work towards improving the healthcare. While these provisions are unenforceable, there is, a binding means for the citizens to clamour for access to ART as a human right. The Constitution affirms the justiciable right to life in Section 33 of the Constitution. While not directly a 'right to health,' this provision has been interpreted by the courts to include the right to access to life-enhancing healthcare.[13] Moreover, the African Charter, and its health provisions form part of the laws in Nigeria.

Infertility is recognized as a reproductive health issue that affects many individuals and couples, therefore, access to ART should fall under the broader right to health.[14] ART procedures like IVF, surrogacy, and artificial insemination can significantly improve the quality of life and fulfill the reproductive aspirations of individuals, particularly those facing infertility.[15] The ability to address this health concern is often ignored as a pressing health care need. In many African societies, diseases and ailments such as diabetics, kidney diseases, malaria, cancer and other chronic illnesses dominate the discourse and approach to healthcare needs. The right to have a child including the opportunities to conceive and raise children is overlooked as an essential healthcare demand. Often times, the right and access to infertility treatment and services is viewed as an optional desire and therefore those who desire it should pay the premium price for this.[16]

Persistent infertility can take a toll on mental health, in addition to affecting marriages and sending them to the brink of divorce and misery. ART offers great options to take control of the situation, however, the high cost can be a deterrent to trying this action. In Nigeria, for example, some clinics charge 1,550,000-2,750,000 Nigerian Naira for a self-cycle IVF cycle, and 1,850,000 to 3,350,000 Nigerian Naira for a donor-cycle IVF cycle, plus additional costs for each additional cycle.[17] The minimum wage has just been increased to 70,000 naira ($44) a month, from 30,000 naira in 2014.[18] A year's wage of 840,000 naira is not sufficient to cover one cycle of IVF. What this portends for Takweano and many other similar low-income earners is that they are unable to secure their reproductive health rights. In many cases, the public and private insurance schemes do not cover ART treatments.

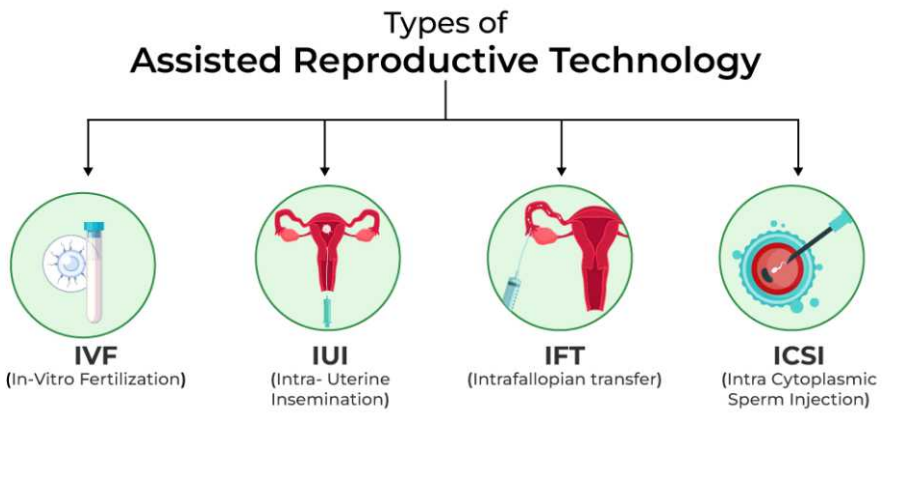
The inability to facilitate state-sponsored or affordable access to ART can be seen as a violation of the right to health, as it prevents individuals from achieving the highest attainable standard of reproductive health. Scholars and advocacy groups argue that ART should be recognized as an action-inducing human right, as access to reproductive health services is a cornerstone of human dignity and autonomy.[19] Upholding the right to have a child is essential for fostering healthy families, promoting mental well-being, and ensuring the continuity of communities in a respectful and dignified manner. Reproductive health is central to the enjoyment of other rights, as it influences people's ability to participate fully in society. When reproductive issues, such as infertility, are not addressed, they can limit individuals' economic and social participation, especially for women.

Barriers to ART Access in Africa

Access to ART, especially in African societies, is hindered by several factors as follows:

Economic Constraints: ART procedures can be costly, and many African countries lack national health insurance systems that would cover such treatments.[20] As a result, ART is often out of reach for most individuals, particularly in low-income and rural areas.[21]

Cultural and Religious Beliefs: In many African societies, cultural and religious norms influence attitudes toward infertility and reproductive technologies.[22] Some cultures view infertility as a source of stigma, particularly for women, and may disapprove of technologies such as IVF or surrogacy. Additionally, certain religious groups may oppose ART on the grounds of beliefs about the



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sanctity of life or concerns about "unnatural" interventions in procreation.

Legal and Regulatory Barriers: Legal frameworks for ART are underdeveloped in many African countries. There is often a lack of clear regulations regarding who can access ART, what procedures are permissible, and how ART-related issues like surrogacy and embryo rights should be handled. Without a coherent legal framework, access to ART is uneven and unreliable.

Limited Infrastructure and Expertise: ART requires specialized healthcare infrastructure, such as fertility clinics, trained medical professionals, and advanced laboratory facilities. Many African countries lack such infrastructure, and there is a shortage of trained reproductive health professionals who can provide ART services.

Stigma and Social Pressure: In many African societies, there is significant social pressure on women to bear children.[23] Infertility can be a source of social stigma, and many women may be reluctant to seek ART due to fear of judgment or social discrimination.

Securing Access to ART

Addressing these forgoing challenges through improved access to ART and treatments, and the availability of quality treatment options and adequately trained personnel. Funding for public sector assisted reproductive services as well as subsided fees and insurance in the private services is key to securing access. Proper regulation of the practice can also help in offering low-cost options.

In respect to the financial implementation challenges, the governments, especially African states can collaborate to improve access to ART and reproductive health services. International organizations, such as the World Health Organization (WHO) and various non-governmental organizations (NGOs), can also provide technical assistance and funding to help African countries expand access to reproductive health services, including ART. The successful interventions in cases of HIV/AIDS medications, subsidized cancer treatments and COVID-19 vaccines serve as good examples of proactive intervention measures. Such an approach can be leveraged on to secure access to government sponsored or low-cost high quality ART.

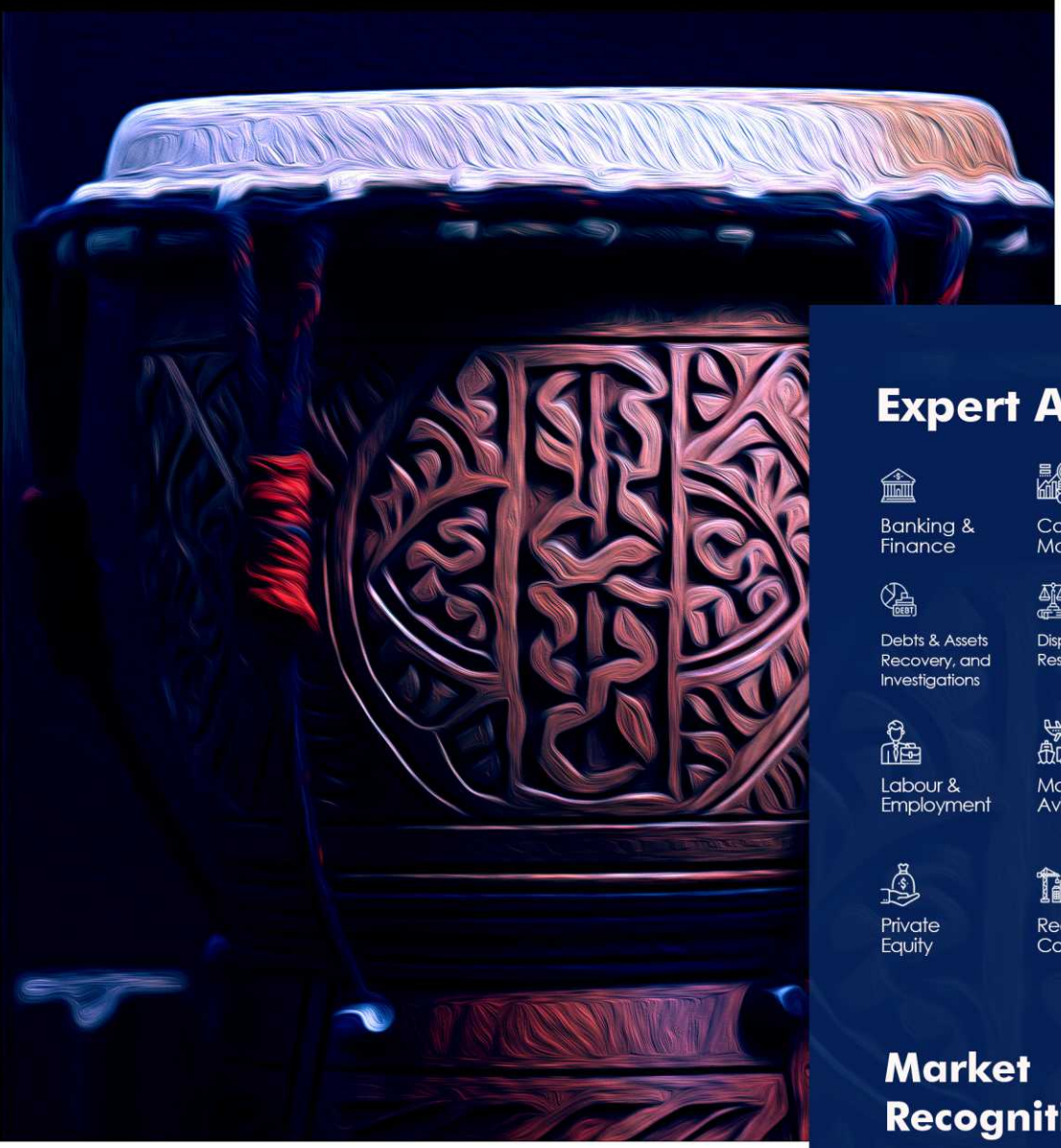
Lastly and most importantly, education and sensitization against socio-cultural bias are key means to finding a solution and promoting the health rights of women. Raising awareness about the importance of ART as part of the right to health can help to reduce stigma, promote public acceptance, and advocate for policy reforms.

Conclusion

The right to health as enshrined in numerous human rights instruments is a critical foundation for promoting reproductive rights, including access to ART. To fully realize this right, states must address the barriers to ART access and ensure that it is included within their broader commitments to improving health and human development. Overcoming challenges such as economic constraints, legal gaps, and cultural resistance will be essential for making ART services accessible and equitable, and for ensuring that the right to health is upheld for everyone.

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Prof. Damilola Olawuyi SAN

Traversing the Limits of the Law in the age of Artificial Intelligence (AI)"

Professor Damilola S. Olawuyi, SAN is an international lawyer, policy adviser, professor of law and recognized expert in natural resources, energy and environmental law. He has provided expert advice and opinion, on oil, gas, renewable energy, mining, agriculture, infrastructure development and clean technology projects, in North America, Europe, Asia, Africa and the Middle East. He is Deputy Vice Chancellor, Chancellor's Fellow and Director of the Institute for Oil, Gas, Energy, Environment and Sustainable Development (OGEES Institute), Afe Babalola University, Nigeria. He holds the UNESCO Chair on Environmental Law and Sustainable Development at HBKU Law School, Doha, Qatar where he teaches energy and environmental law courses. Professor Olawuyi provides legal services as a Senior Counsel and Arbitrator at McNair International Law Firm, a global law firm with presence in the UK and Qatar. He was formerly an international energy lawyer at Norton Rose Fulbright Canada LLP, Calgary, where he served on the firm's global committee on energy investments in Africa.

Professor Olawuyi has published several influential journal articles and books. He has been an expert speaker and commentator at several international conferences. His recent book publication Environmental Law in Arab States (Oxford University Press, 2022) received the 2023 American Society of International Law Certificate of Merit.

In recognition of his substantial contribution to legal scholarship and jurisprudence, Professor Olawuyi was awarded the rank of Senior Advocate of Nigeria (SAN) in the year 2020, aged thirty-seven, therefore becoming the youngest academic ever elevated to the rank, and the very first graduate of a private university to become Senior Advocate of Nigeria. From 2020-2022, Professor Olawuyi served as an Independent Expert on the African Commission's Working Group on Extractive Industries, Environment and Human Rights. In 2021, he was appointed by the Federal Government of Nigeria as a member of the Governing Board of the Nigeria Extractive Industries Transparency Initiative (NEITI). In 2022, he was appointed by the United Nations Human Rights Council as an Independent Expert on the UN Working Group on Business and Human Rights. In 2024, he was honoured with the Weeramantry International Justice Award.

Professor Olawuyi serves on the management committees and boards of several organizations. He is Vice Chair of the International Law Association, President of the Nigerian Branch of the International Law Association, Chair of the Association of Environmental Law Lecturers in Middle East and North African Universities, Chair of the Academic Advisory Group of the International Bar Association's Section on Energy, Environment, Natural Resources and Infrastructure Law; and Chairman of the Legal Education Committee of the Nigerian Bar Association. He is a member of the Governing Council of Afe Babalola University, Ado Ekiti.

Professor Olawuyi holds a doctorate in energy and environmental law from the University of Oxford; a master of laws (LL.M.) from Harvard University; and another LL.M. from the University of Calgary. He has been admitted as Barrister and Solicitor in Alberta, Canada; Ontario, Canada; and Nigeria. He is a regular media commentator on all aspects of energy, environment and sustainable development.



WITH Prof. Damilola Olawuyi SAN

Who or what has made the most profound influence on your life and career?

I have benefitted and learned a lot from several mentors both in Nigeria and abroad. I have also been inspired by the success stories of many, both working in proximity and from afar. It is however an open secret that my greatest mentor of all time is Aare Afe Babalola, SAN, OFR, LL.D, the Chancellor and Founder of Afe Babalola University, Ado Ekiti (ABUAD). I grew up reading about his many giants strides as an erudite lawyer, administrator and philanthropist of global esteem. However, I first came in direct contact with him in my late twenties when I was just wrapping up my PhD studies at Oxford University. Since then, he has had a profound influence on my professional development and career. Notwithstanding my age at the time, he appointed me as the founding director of the Institute for Oil, Gas, Energy, Environment and Sustainable Development (OGEES Institute) at ABUAD which has since grown to become one of the leading research institutes in Nigeria and Africa. As you may already know, through Aare Afe Babalola's mentoring and support, I have since been able to record many firsts, including becoming one of the youngest professors of law in Nigeria having been promoted to full professorship at 32 years; youngest deputy vice chancellor at 36 years, and the youngest senior advocate of Nigeria (academic) at 37 years. So, you can totally understand the high regard that I hold Aare Afe Babalola, because only very few individuals support, mentor and inspire others like he has selflessly done for me. If I can achieve just a few of what he has achieved in his distinguished career, then I would count myself fortunate.

You are a renowned law scholar, an international lawyer, policy adviser, professor of law and recognized expert in natural resources, energy and environmental law; what informed your choice of career and areas of specialization?

Nigeria's unfulfilled promise as a leading exporter of oil, gas and solid mineral resources was my main motivation. I recall studying environmental law and oil and gas law under the able tutelage of Professor Lawrence Atsegbua, SAN during my Bachelor of Laws (LL.B) program and I found his lectures and comparative approach to be very compelling. During this time, I was intrigued to learn about the perennial economic, environmental and social challenges that have trailed the commercial development of Nigeria's vast resources, unlike other resource rich countries such as Canada, Qatar, United Arab Emirates and Saudi Arabia amongst others that have been able to turn the corner in the use of their natural resources. I therefore decided to pursue further research in this area, which led me to obtain advanced degrees abroad in the discipline. After practicing as an international energy lawyer at Norton Rose Fulbright LLP in Canada for a few years, I decided to focus my career on research and teaching by joining the academia, later becoming a full professor of international energy and environmental law. As a scholar-practitioner, I continue to contribute to research, publications, and dispute resolution on international energy investments and infrastructure projects. I hope to remain at the forefront of proffering innovative legal, contractual and dispute resolution approaches that could in no time help our country to fully maximize and leverage its resource wealth to become the energy and economic hub of the world.

In 2021, you were appointed by the Federal Government of Nigeria as a member of the Governing Board of the Nigerian Extractive Industry Transparency Initiative (NEITI), in addition to your work as Director of the Institute for Oil, Gas, Energy, Environment and Sustainable Development. Given your vast experience and expertise in international energy law, do you have any hopes for sustainable energy future for Nigeria?

I am an incurable optimist when it comes to Nigeria's enormous potential to become a strategic global energy and economic hub. Nigeria is one of the rare countries in the world that is endowed with vast deposits of both petroleum and solid minerals. We also have a huge pool of talented professionals that continue to contribute their expertise both within and outside Nigeria. With such a profile, energy poverty and electricity deficits should never be mentioned in Nigeria's context. The problem over the years is that we have failed to realize that the energy sector is a cyclical and globally competitive business that must be run with a fully commercial and entrepreneurial mindset. Many years of running the then Nigerian National Petroleum Corporation (NNPC) as a government entity, with the associated bureaucracy, lack of transparency, and lack of technology innovation meant that we were unable to fully maximize the boom cycle of the 1990s. I am however excited about some of the innovations that we are seeing in terms of commercializing the NNPC, strengthening our participation in the global extractive industry transparency initiative (EITI) and most importantly the enactment of the Petroleum Industry Act and the Climate Change Act which have opened doors to institutional coherence and energy diversification. These developments reinforce hope that if we continue in the trajectory of making the energy sector more attractive through innovative economic incentives, then we will be able to consistently meet domestic energy and electricity needs, while competing globally as an attractive hub for clean energy investments.

You have been involved in a number of local and international arbitrations. What is your view on increasing preference for energy arbitration by parties outside of the country? Do you think Nigeria lacks the capacity in terms of local arbitration of energy disputes?

It is often a puzzle to me when I see Nigerian arbitrators and disputants at the airports flying to London, Hague, Geneva and New York to resolve disputes that mostly arose in Nigeria. Just as the government clamors for buying locally made goods, all of us as arbitrators and practitioners must make a deliberate choice to develop our homegrown arbitration institutions. Arbitration is all about the choices made by the parties, guided by their counsel. So, the process starts with integrating arbitration clauses that select Nigeria as venue and seat of arbitration, while also integrating our own homegrown arbitration institutions and rules. There is also a need to address barriers such as infrastructure challenges, technology gaps, and delays in enforcement of awards, especially avoiding unnecessary intervention by courts. The Arbitration and Mediation Act, 2023 tries to address several of these gaps, and we now need to match it with investments in infrastructure and technology that will make our centres attractive to contracting parties. There is also a need to invest in training and mentoring of the next generation to sustain their expertise and interest in arbitration. The young lawyers of today will be the ones drafting and negotiating the contracts in the near future, so we need to expose them to the rudiments and practical aspects of arbitration from an early stage. This is exactly what our Committee on International Commercial Arbitration at the International Law Association, Nigeria has been doing over the years. Our aim is to provide training, resources and capacity development that will serve as the pipeline for Nigeria's leadership in this important area.



Prof. Damilola Olawuyi SAN, Deputy Vice Chancellor Academic ,Afe Babalola University ,Prof. Elizabeta Smaranda Olarinde, Vice Chancellor, Afe Babalola University, Ado Ekiti Pastor Modupe Babalola, Bursar, Afe Babalola University. Prof. Ijabadeniyi , Deputy Vice Chancellor, Administration, Afe Babalola University, Ado EkitiLady Christie Oluborode, Registrar, Afe Babalola University, Ado Ekiti Aare Afe Babalola SAN, Founder and Chancellor, Afe Babalola University, Ado Ekiti

Law and Lawyering in the 21st century is becoming very sophisticated and internationalized. In your opinion, how progressive is the legal profession in Nigeria. Is Nigeria's legal profession and professionals globally competitive?

The practice of law is truly undergoing profound transformations driven mainly by globalization and rapid technology developments Not so long ago, being asked to 'think like a lawyer' meant having advanced oral advocacy and critical thinking skills to spot legal risks and win cases in court. However, in today's

increasingly globalized marketplace, thinking like a lawyer means blending knowledge of the law with project management, data analytics, technology innovation, and sharp entrepreneurial skills. Knowing the law alone is no longer sufficient to be successful in today's fast-paced world. Clients have tasted the efficiency and astuteness of consulting firms and now expect the same from lawyers. Unfortunately, however, most of our law faculties continue to train students mainly for the analogue and traditional practice of law, as well as with focus on passing the bar examination at the Nigerian Law School, instead of practice-readiness. We therefore have lawyers with little or no knowledge of business intelligence, strategic planning, and use of data analytics tools, such as Ghant and LACI charts in simplifying information of busy business executives. The result is what we see today where some young lawyers are underpaid and have no entrepreneurial skillsets to use their legal training in other contexts. We must therefore break the cycle by refocusing our legal education on practice-readiness, and this requires actively infusing all our law courses with technology innovation, business intelligence, and commercial awareness.

As a legal scholar and the Chairman of Legal Education Committee of the Nigerian Bar Association (NBA), what changes would you like to witness in the form and model of Legal Education in Nigerian Universities and the Nigerian Law School to produce twenty-first century lawyers in view of the ever-changing dynamics of law and its practice?

Over the last years, especially at the recent NBA Legal Education Summit in 2022, which I chaired its organizing committee, members of the legal profession have consistently called for a reimagination of legal education in Nigeria, including the need to develop practice-ready lawyers that can contribute meaningfully to Nigeria's development. I was therefore honored to be asked by the President of the NBA, Mazi Afam Osigwe, SAN to continue the task of championing a structured reformation of the legal education system in Nigeria and actualizing a system that will produce competent, commercially aware and ethically responsive legal professionals who are fit for purpose and are able to meet the legal needs of today's globally competitive market.

We are working closely with all law faculties in Nigeria, and the Nigerian Law School to communicate an agenda for transformational legal education. First is the need to develop more practical courses. Not all course such be taught in the traditional lecture format with end of semester examination. We need courses that are designed as simulations that allow students to practice legal drafting, business management, use of data analytics and artificial intelligence. Second, we need curriculum transformation to integrate new and emerging areas of law, such as digital law, space and aviation law, healthcare law, food and agricultural law, renewable energy, carbon finance law and international development law amongst others. Third, we need to support our academics with resources, training and exchange opportunities to perfect such transformational teaching approaches. We have therefore initiated periodic workshops, seminars and conferences that will provide such knowledge exchange opportunities. Under my watch, the NBA Legal Education Committee is well placed to continue this important discussion, and we look forward to working with all stakeholders in this important task.

In recent times, we have noticed increased intra-African trade. Trans-border opportunities also appear to be increasing. Do you think this will ultimately bring about trans-border legal practice among African law firms.

The growing rise in intra-Africa trade, especially with the adoption of the Africa Continental Free Trade Agreement (AFCTA), is a positive development that will create more opportunities for lawyers and law firms. Before now, lack of a pan-Africa trade framework created artificial barriers that hindered regional trade cooperation and integration. In a continent whereby travelling from one country to the other is more difficult that going to Europe, then the prospects for regional trade integration remained bleak for many years. However, with AFCTA, we see a real prospect for those barriers to be dismantled, which should naturally lead to more business for lawyers within the continent. We are already seeing more Nigerian law firms opening offices in Ghana, Kenya, Mauritius and South Africa, and I expect more. There are also serious prospects of having pan-African networks of law firms that could fully integrate to compete for business that were exclusively reserved for the big magic circle law firms in London and New York. I do hope more of our firms can already adopt such Africa focus in their recruitments, outreach and planning. Being a regional or international law firm starts with actively participating in opportunities that expand one's practice reach beyond national contexts.

What new trends and challenges have you observed in arbitration law and practice in Nigeria and globally?

The ongoing transformations in energy demand and supply patterns as a result of the global energy transition is resulting in a new wave of disputes and arbitration. For example, we have seen a rise in investor-state arbitration by international oil companies challenging net zero legislation that hinder new developments under existing mining and petroleum licenses. Furthermore, some natural resource operators have been challenged for greenwashing and misleading consumers on the scope and impact of their net zero programs and products. We have also seen challenges relating to the application of local content provisions in the context of procurements for petroleum operations. Similarly, as more oil and gas infrastructure are decommissioned, we have seen a rise in disputes relating to the liability for the



Mr. Clement Osuya, General Secretary, International Law Association, Nigeria BranchProfessor Damilola Olawuyi SAN, President, International Law Association, Nigeria BranchDr. Kayode Fayemi, former Governor of Ekiti State.Mr Tolulope Aderemi, Chair, International Arbitration and ADR Committee

decommissioning of wells drilled after the licensee ceased to be the owner of the relevant oil and gas assets.

These trends show that arbitration will play a very crucial role as states and energy operators try to ascertain their rights and responsibilities in a rapidly evolving energy market driven by technological transformations, price volatility and the clean energy transition. As argued in our recent book Net Zero and Natural Resources Law (Oxford University, Press, 2024), these transformations call for a reinvigoration of arbitration practice to resolve these questions in a timely manner. We must also ensure that Nigerian legal practitioners and experts are actively involved in these matters in line with Section 51 of Nigeria's Local Content Act which provides for the utilization of the services of Nigerian legal practitioners in providing legal services in the energy sector, especially those that who are familiar with resolving novel energy disputes such as climate change disputes, renewable energy and energy transition related matters. I would like to see more training and courses by arbitration institutes, such as the Nigerian Institute of Chartered Arbitrators (NICARB) to enhance capacity in these areas.

What lessons could be or have been learnt from the handling of the transaction leading to the Process and Industrial Developments Ltd (P&ID) pandemonium, the Ogun State's Zhangshan Funcheng Ind. Comm Ltd v Nigeria that led to seizure of Nigeria's jets and on-going Mambila power project arbitration?

These cases provide timely reminders that international law is a specialist area of practice, and that only those with deep expertise in international law should be involved in representing Nigeria in investment negotiation and despite resolution. As I often like to say, in international law, you don't always get what you deserve but what you negotiate. So, we must begin to take our international law representation more seriously.

For example, in the P&ID case, even the tribunal publicly lamented that Nigeria had been inadequately represented during the arbitral proceedings. In a country blessed with several leading and world class arbitrators, including the eminent members of the Committee on International Commercial Arbitration and ADR of the International Law Association, such a regrettable case of compromise and lack of capacity of Nigeria's representation should never have occurred if the right professionals were entrusted with building Nigeria's very clear and compelling case. Unfortunately, the lack of adequate representation of Nigeria's interest is traceable even to the process that led to the Gas Supply and Processing Agreement (GSPA) signed with P&ID in the first place. The GSPA had several risk points and loopholes and should not have been signed if Nigeria's negotiation team had paraded the best minds in international energy law and international investment law. Same for the Mambila power project, another dishonest agreement with several risk points and loopholes that could have been avoided with principled and qualified representation.

Unfortunately, we also paid the price for such inadequate representation with the Ogun State's Zhangshan case. State governments and sub-regionals should not enter into international agreements without the active engagement and consultation with of the Federal Ministry of Justice, the Ministry of Foreign Affairs, and the Nigerian Investment Promotion Commission. Given that international law cuts across different ministries and sectors, there is a need for coherent coordination. This realization has led some countries such as Singapore to appoint an Ambassador for International Law, tasked with promoting intergovernmental cooperation on international law across all ministries, sectors and sub-national entities. This is to ensure that best practices in international treaty and agreement negotiations and to provide high-level expertise to relevant ministries in every aspect of their work that intersect with international law. I think Nigeria can learn from these emerging practices and evolve a coherent framework for ensuring a more coordinated and principled approach to our international law representation and investment negotiation.

What suggestions do you have for the bar, the bench and arbitrators as to how law, justice systems, arbitration could be significantly improved upon in Nigeria?

Several of the challenges facing the effectiveness of the justice system,

including the practice of arbitration, in Nigeria can be broadly categorized into three: funding, capacity and integrity. As you rightly noted, I have been one of the most vociferous advocates for increased funding for the judiciary to enable it to properly perform its functions. We have recently seen good news in this regard with the increased budgetary allocation to the judiciary this year, in fact one of the highest so far in recent history. We have also seen recent increase in remuneration and benefits of judicial officers all aimed at boosting morale and improving their working conditions. We need more of such sustained investment in our courts and arbitration institutions, especially in infrastructure and technology to make them fit for purpose. The decayed, age-worn, and deplorable state of court rooms across Nigeria, with little or no access to modern technologies needed for the conduct of legal business must be addressed as a matter of priority to enhance transparency of judicial proceedings. Furthermore, enhancing the integrity of the justice system will require a mix of flushing out the bad eggs that give the system a bad name, as well as promoting ethical training and mentoring for all judicial officers and arbitrators including on how to avoid conflict of interest in the discharge of their functions. In arbitration, we have seen several cases of conflict of interest and dishonest representation, while our judiciary has also been bedeviled by weighty allegations of bribery, corruption and nepotism. More focus on ethics in the selection and training of judges and arbitration practitioners is therefore an urgent necessity, especially through exposure to foreign best practices, developmental trainings, and seminars.



With President of the African Court on Human and Peoples Right, H.E Hon Lady Justice Aboud

You currently serve as Africa's representative on the United Nations Working Group on Business and Human Rights, where you lead UN's effort to promote responsible investments worldwide. Do you really think economic development could be achieved without some harm to the environment?

It is indeed a great privilege for me to serve on the UN Working Group on Business and Human Rights. Our Working Group has the global mandate of promoting responsible business conduct in all key economic sectors in accordance with the UN Guiding Principles on Business and Human Rights (UNGPs). This includes ensuring that investment activities respect and promote all human rights, including the right to a clean, healthy and sustainable environment. Achieving business respect for human rights requires a balanced approach that places planet and the protection of the environment above profit. This is however far from the reality in many countries including Nigeria. What we find in most cases is the tendency of business enterprises, especially international oil corporations, to place profit above people and planet, resulting in some economic progress without actual human development. The devastation of the hitherto serene ecosystem of the Niger Delta due to oil spillage, gas flaring and other irresponsible practices is a classic example of how unregulated economic activities could harm the environment and human life.

Since the endorsement of the UNGPs in 2011, we have seen more than forty countries adopting legislation and National Actions Plans on Business and Human Rights (NAP) that spell out what responsible countries and businesses should do to balance economic development with protection of the environment. Nigeria joined that great league in 2023 with the adoption of a comprehensive NAP which spells out government expectation for businesses to conduct their economic activities in a manner that limits adverse human rights impacts, including environmental pollution. We look forward with anticipation that the adoption of the NAP in Nigeria will move us closer to an era of responsible practices by all economic actors in Nigeria. I look forward to working with governments at all levels, business enterprises, civil society actors and other stakeholders in advancing this important task.

In 2023, at the UN General Assembly in New York, you presented a report of the Working Group titled "Extractive Sector, Just Transition and Human Rights" to world leaders. What are the key recommendations and lessons for energy investors and practitioners.

As you know, since the adoption of the Paris Agreement, a lot of companies and governments have released plans to accelerate energy transition and low carbon programs. We however see how the implementation of net zero and energy transition programs may result in in adverse human rights impacts in fragile and at-risk economies and societies, especially unemployment for those in the oil and gas sector, social exclusions, land grabs, poverty, energy insecurity and conflict risks. The report therefore considers how governments, businesses, investors and other stakeholders in the extractive sector can best design and implement just, inclusive, and human rights-based energy transition programs in line with the UN Guiding Principles on Business and Human Rights.

Resource dependent countries such as Nigeria must accelerate energy and

economic diversification in response to the emerging demand patterns which will be increasingly unfavorable to oil and gas. This will require promoting green entrepreneurship, especially upskilling and reskilling programs that generate new investments and jobs in clean technologies sector, such as hydrogen, electric vehicles and carbon capture and storage. We have the natural resources to become the next renewable energy superpower of the world if we carefully repurpose our infrastructure and legislation to be energy-transition aligned. There are also recommendations for investors and businesses to align their business practices, policies, processes, governance structures and decisions with the goals of the Paris Agreement, most especially the requirement to 'respect, promote and consider human rights when taking action to address climate change.' Companies can avoid litigation and regulatory risks relating to greenwashing and misleading claims on their energy transition programs through clear, credible, transparent, and accessible reporting. Of course, capacity development and training will play a critical role in enabling businesses and investors to identify, prevent and address inconsistencies in their energy transition efforts and to ensure alignment with international law. We look forward to assisting all stakeholders with resources, capacity development and training in this regard.

Some have argued that Nigeria's energy sector- oil, gas, and renewable is needlessly over-regulated and explains why the country has been unable to achieve regulatory efficiency. Do you agree?

The enactment of legislation is not the problem in itself, as they are often put in place in response to contemporary problems facing the energy industry at every point in time. Over the years however, we began to see the proliferation of regulations and legislation that at times overlap, while establishing institutions with duplicative functions or without adequate budgetary resources to ensure their effective functioning in practice. Such role duplication frustrates investors and stakeholders in the energy sector who have had to cope with multiple licensing and reporting requirements, exorbitant administrative fees by different agencies, and bureaucratic delays and red tape in different aspects of the process.

I have therefore been one of the most consistent advocates for regulatory harmonization in the energy sector to reduce overlaps and role duplication. The Petroleum Industry Act is a positive step in this direction as it has created greater synergy in the petroleum sector by bringing several functions under the purview of the Nigerian Upstream Regulatory Commission, and the Nigerian Midstream and Downstream Petroleum Regulatory Authority. We do hope this will bring an era of streamlined and more efficient project licensing and approval process. As Nigeria develops its net zero and renewable energy agenda, we must also avoid the temptation to establish more agencies and institutions. Net zero programs can effectively come under the purview of the Energy Commission of Nigeria or the National Council on Climate Change without the need for another standalone entity. Also, agencies and institutions should promote greater interoperability, knowledge and information exchange to advance coherence and efficient implementation.



With H.E. Governor Dapo Abiodun of Ogun State.


With billionaire investors and agriculture entrepreneurs, Margarita Louis-Dreyfus and Chairman of Agrico Qatar, H.E Ahmed Hussain Al-Khalaf

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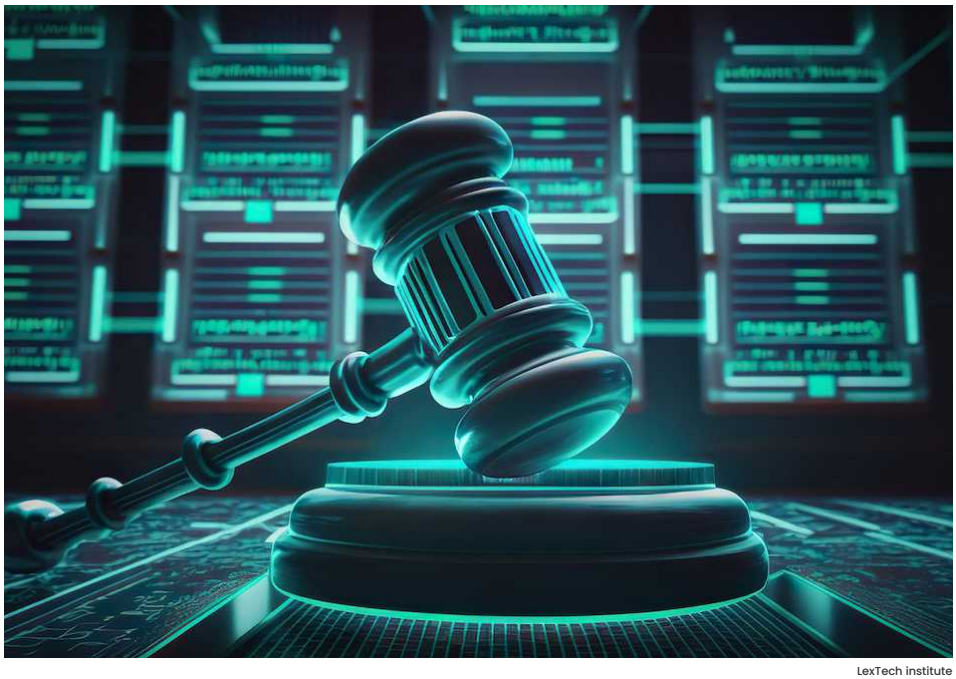
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Legal Accountability in AI Decision-Making.

Abstract
Over the past decade, courts and regulatory bodies have struggled to reconcile long-standing liability principles with the complexity of AI-driven decisions. Traditional concepts like vicarious liability, once grounded in an employer's responsibility for human employees, now require rethinking when an algorithm—rather than a person—calls the shots. At the same time, emerging legal frameworks in the European Union, North America, and beyond are sharpening questions around whether companies can offload accountability onto machines, or whether they remain squarely responsible for harms ranging from faulty chatbot advice to self-driving vehicle accidents. Recent case law, such as Moffatt v. Air Canada, illustrates that courts see little difference between a chatbot's error and a mistake made by any other company representative. Financial services, healthcare, and the automotive sector provide vivid examples of how AI can misfire, occasionally creating economic or physical risks that mirror—and sometimes exceed—those posed by human agents. Indeed, companies still bear the weight of institutional liability, whether it's for inadequate oversight of an AI-driven medical device or an automated trading tool that triggers catastrophic losses. Concurrently, worldwide regulatory efforts—including the EU's forthcoming AI Act and updates to product liability rules—are converging on a simple premise: no matter how advanced the machine, someone must remain accountable. In practice, that entails rigorous testing, active supervision, and a willingness to explain how AI reaches its conclusions. Ultimately, legal and ethical frameworks appear headed in one direction: they demand that human organizations preserve transparency, fairness, and responsibility—even if the decision-maker wears the face of an algorithm.



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Introduction

Vicarious liability exists to ensure that employers are liable for the tortuous actions of their employees that take place in the course of their employment. But in a world where employee acts are being taken over by AI, who bears the liability from when these systems go off the rails, so to speak? This work will explore Case Law and Legal Precedents shaping AI Liability, Regulatory frameworks governing AI liability, Corporate Liability in AI-Driven decisions, Ethical considerations and human oversight, and rounding off with a discussion on industry-specific liability challenges before concluding with a conclusion.

Case Law and Legal Precedents Shaping AI Liability

Several legal precedents have explored how the courts view liability for damage caused by AI systems.
1. Tyndaris v VWM:1 This dispute in the financial actor arose when a Monaco-based Investment firm used an AI-driven algorithm to make investment decisions.

The AI, touted as highly successful, ended up making substantial losses, leading to VWM refusing to pay fees and countersuing for the losses incurred. While the matter was settled out of court, this case raised several issues relating to the duty of care in deploying AI tools to perform previously human-led actions.2

2. Moffatt v. Air Canada:3 Here, a Canadian airline, Air Canada, deployed an automated chatbot on its website to answer consumer enquiries. Jake Moffatt



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messaged this chatbot and received incorrect information, which he relied upon to his detriment. He later sued to recover a refund which he was held entitled to by the court. The court held thus: "Air Canada argues it cannot be held liable for information provided by one of its agents, servants, or representatives – including a chatbot. It does not explain why it believes that is the case. In effect, Air Canada suggests the chatbot is a separate legal entity that is responsible for its actions. This is a remarkable submission. While a chatbot has an interactive component, it is still just a part of Air Canada's website. It should be obvious to Air Canada that it is responsible for all the information on its website. It makes no difference whether the information comes from a static page or a chatbot."4

3. United States of America vs. Cruise, LLC (Deferred Prosecution Agreement):5 In October 2023, an autonomous vehicle, owned and operated by Cruise, ran over a pedestrian, and dragged her over 20 feet. There was no driver at the wheel at the time, and the accident was caused by a malfunction of the Autonomous driving system. The company came to a deferred prosecution agreement with the government that required it to pay $500,000 in criminal fines among other penalties.6 The pedestrian injured received a settlement estimated to fall somewhere between $8 million and $12 million.7

These cases actively shape how the law views and considers AI. Lawsuits relating to harmful AI-driven outcomes like wrongful arrests, unfair denial of loans or housing, and even AI libel are presently in progress, testing the courts.8 Each ruling works to clarify the burdens and liabilities of AI developers, users, and regulators, slowly and steadily building a body of law dedicated to determining AI liability.

Regulatory Frameworks Governing AI Liability

Laws and regulations are being passed and created with the basic goal of addressing liability for AI-driven decision making. When it comes to data protection, for instance, the European Union's General Data Protection Regulation (GDPR) confers the right not to be subject to a purely automated decision upon individuals.9 This means that decisions like loan approvals or job rejections can not be foisted off entirely to AI without human oversight. The GDPR restricts unchecked automated decisions and grants people the ability to obtain human review of AI-made decisions. Provisions like this one create a degree of accountability for these AI systems by ensuring human oversight.

This regulatory effort goes far beyond data protection, however. The EU Artificial Intelligence Act uses a risk-based classification system where providers of "high-risk" AI systems in areas like healthcare finance, and law, must implement risk assessments, transparency, human oversight, and other stringent control measures under threat of penalty.10 Not stopping here, the European Union is also working to update its product



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liability rules by introducing an AI liability directive, which would address the challenge of proving fault when AI's complex and "black-box" nature would make it impossible for victims to pinpoint what went wrong, to make irt easier for victims to claim damages for harmful AI-driven outcomes.11

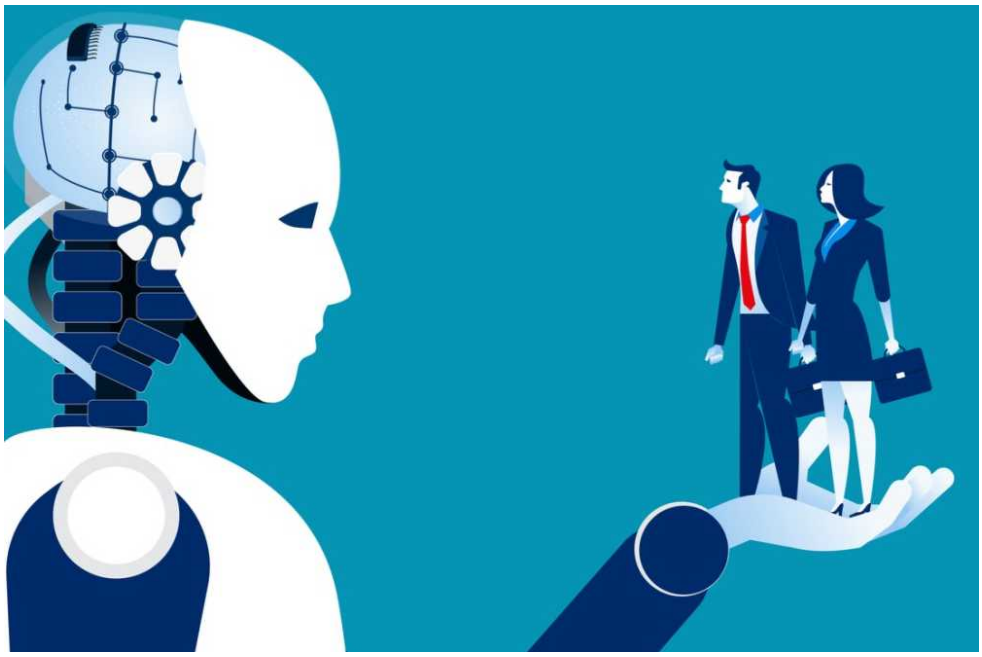
While the EU is far and away the leader in AI-regulation, other jurisdictions are also grappling with AI accountability. In the absence of a dedicated AI liability law, US Courts have proven willing to apply negligence and product liability principles to AI 12 Individual regulatory agencies like the U.S Federal Trade Commission have warned that they will hold companies responsible for AI-driven outcomes under consumer protection laws.13

In the International sphere, several bodies have published ethical AI guidelines. Notable examples include the OECD AI Principles, and UNESCO's AI ethics recommendation. While not legally binding, these guidelines can influence national policies to highlight accountability, transparency and the need for human oversight.

Altogether, the legal landscape is constantly evolving and nothing remains static in this field.

Corporate Liability in AI-Driven Decisions

In light of the preceding sections, it is obvious that businesses deploying AI systems remain legally accountable for the outcomes that result from said deployment. An AI error or harmful decision can be traced back to the company that unleashed it on the world.14 Practically, this effectively means that traditional legal doctrines like negligence and product liability apply to AI. However, it must be noted that this only exists for the present state of AI development, and if the mythical Artificial General Intelligence



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is ever achieved, then this position might no longer be the case.

Determining fault can be complex when AI involves multiple actors, with a notable example being a situation where one company develops an AI system, and it is deployed by another company. A good example would be Amazon's recently launched Alexa Plus which uses an AI system partly based on Anthropic's Claude. In cases like this one, courts will investigate whether each party met their duty of care, using industry standards and best practices to decide if the companies acted reasonably both in the development and deployment of the AI system.15

This effectively means that companies can not avert liability by foisting blame onto algorithms and must proactively manage AI risks through testing, oversight and compliance, under the threat of reputational, legal, and financial consequences. A good example of this would be the Air Canada case discussed in the first section.16

Now, this work shall examine the liability challenges posed by specific industries.

1. Healthcare and Medical AI

The use of AI in healthcare comes with the inherent potential to accelerate humanity into a golden age where questions as challenging as cancer, and ageing, are issues of the past. However, this potential is insufficient to justify ignoring the complex liability questions raised by the application of present-day flawed AI models.

In medical malpractice law, physicians are expected to use AI as a tool, not a replacement for their own judgement.17 If a doctor performs a treatment or makes a diagnosis based entirely on an AI's recommendation, then he can still be held liable if that recommendation deviated from the accepted standard of care.

Hospitals as a whole also face a level of institutional liability, which means that they must properly vet and monitor the performance of any AI tools deployed in the hospital and used by hospital staff. Where a hospital deploys a system without due diligence and appropriate oversight which causes harm, they can be found negligent.18
Furthermore, AI software and device manufacturers also run the risk of product liability challenges if their

devices prove to be less safe than advertised.19 They also have a duty to comply with regulations where they exist, like the EU AI Act, which confers higher burdens and oversight requirements for AI systems in the healthcare industry.20

2. Finance and AI Algorithms

Algorithms are deeply embedded in finance. These can range from automated trading systems to loan underwriting and fraud detection.

One of the principal risks here is the potential for AI systems to act as tools for perpetrating discrimination due to algorithmic bias. A notable example of this is the Apple Card controversy where an algorithm made decisions that discriminated against women by granting them significantly lower credit limits than those given to men in similar financial situations.21 In this instance, regulators viewed the outcomes of this algorithmic decision as violations of equal credit opportunity laws.

Another significant risk here is the potential for losses incurred by autonomous trading algorithms. The worst-case scenario here has already been previously outlined in the earlier discussed Tyndaris v VWM.22 These AI systems make split-second investment decisions and portfolio moves without direct human input. If they malfunction or make poor decisions, the financial losses can be dramatic.

Similarly, the infamous "flash crash" events and other market incidents have been partly attributed to algorithmic trading gone awry (though usually not AI, they highlight the principle that firms will be held responsible for their automated trading strategies). Financial firms could face negligence or breach-of-contract lawsuits from clients if an AI advisor is negligently designed or if the firm overhypes its capabilities. To mitigate this, the finance industry is investing in rigorous testing and governance frameworks for AI, as well as considering insurance products to cover algorithmic liability.23

Autonomous Vehicles and Transportation

Traditionally, when an accident takes place, the liability for the crash almost always rests with the driver. However, what happens when there is no human driver? In a fully-autonomous vehicle, the driver is an algorithm not a human. As seen in the Cruise incident discussed in section 1, these systems can cause dangerous accidents.

Product liability is emerging as the framework for AV crashes: if a vehicle operating in autonomous mode causes an accident, the injured party may claim the vehicle had a design or manufacturing defect in its self-driving system, making the manufacturer (or software developer) liable.24 The logic behind this is easy to follow, the car was in control, so any failure to properly exercise that control is a product defect with the car itself, and ultimately the manufacturer's responsibility.

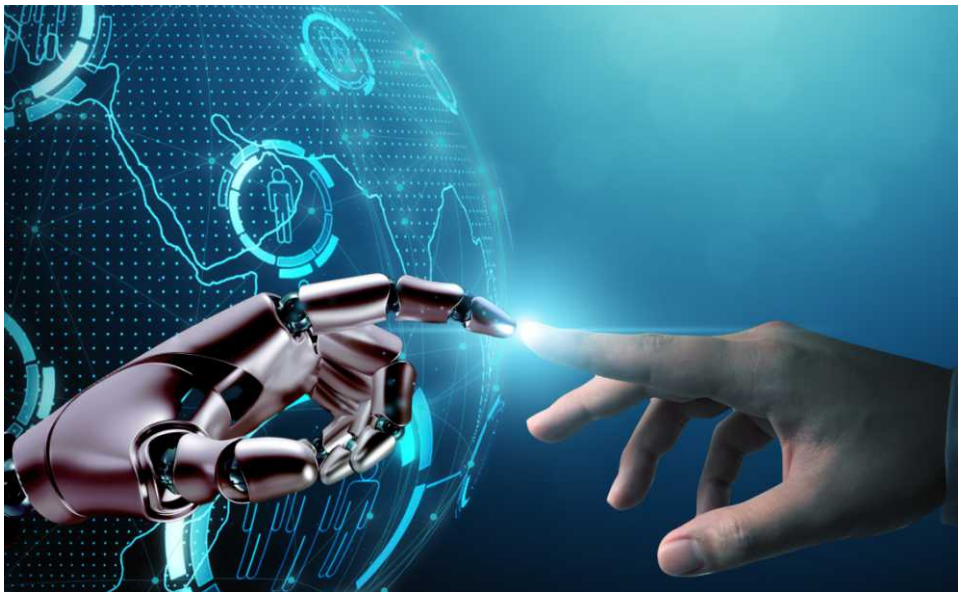
In cases of semi-autonomous cars (Level 2 or 3 automation, like Tesla's Autopilot which still expects human supervision), companies have tended to argue that the human driver is ultimately responsible if they fail to intervene. Courts have begun to wrestle with this: one recent jury verdict found Tesla not liable for a fatal crash, agreeing with Tesla that the driver should have corrected the car's behaviour.

However, as vehicles move toward higher autonomy, regulators are shifting responsibility more squarely onto the vehicle. The UK's Automated and Electric Vehicles Act, for instance, makes the vehicle's insurer initially liable for an accident caused by an automated car, effectively ensuring victims are compensated and then allowing the insurer to pursue the manufacturer if the technology was defective.

Ethical Considerations and Human Oversight

After wrestling with the legal issues, this study will now explore the unique ethical considerations that must be taken into account for useful implementation of AI systems.

Ethical principles and human oversight play a critical role in responsible AI decision-making. A widely endorsed framework is to build AI systems according to principles of fairness, accountability, transparency, and explainability (FATE).25 This means organizations should strive to eliminate



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bias in training data, ensure algorithms do not discriminate, and maintain clear accountability for AI outcomes.

Many AI ethics guidelines stress that when AI is used in sensitive areas (like diagnosing patients, hiring employees, or sentencing criminals), human experts should review or validate the AI's recommendations before actions are taken.26 This oversight acts as a safety check to catch errors or unethical decisions that a machine might make. For instance, doctors using an AI diagnostic tool should ultimately use their judgment and not blindly follow an AI recommendation that seems incorrect.

Transparency and explainability are also crucial for oversight. If an AI system makes a decision, the organization should be able to explain how and why to those affected, in plain terms. This might involve using interpretable models or tools that can audit complex models. Ethically, individuals have a right to know the basis of decisions that impact them – aligning with legal trends like GDPR's requirement to provide information about automated decisions.27

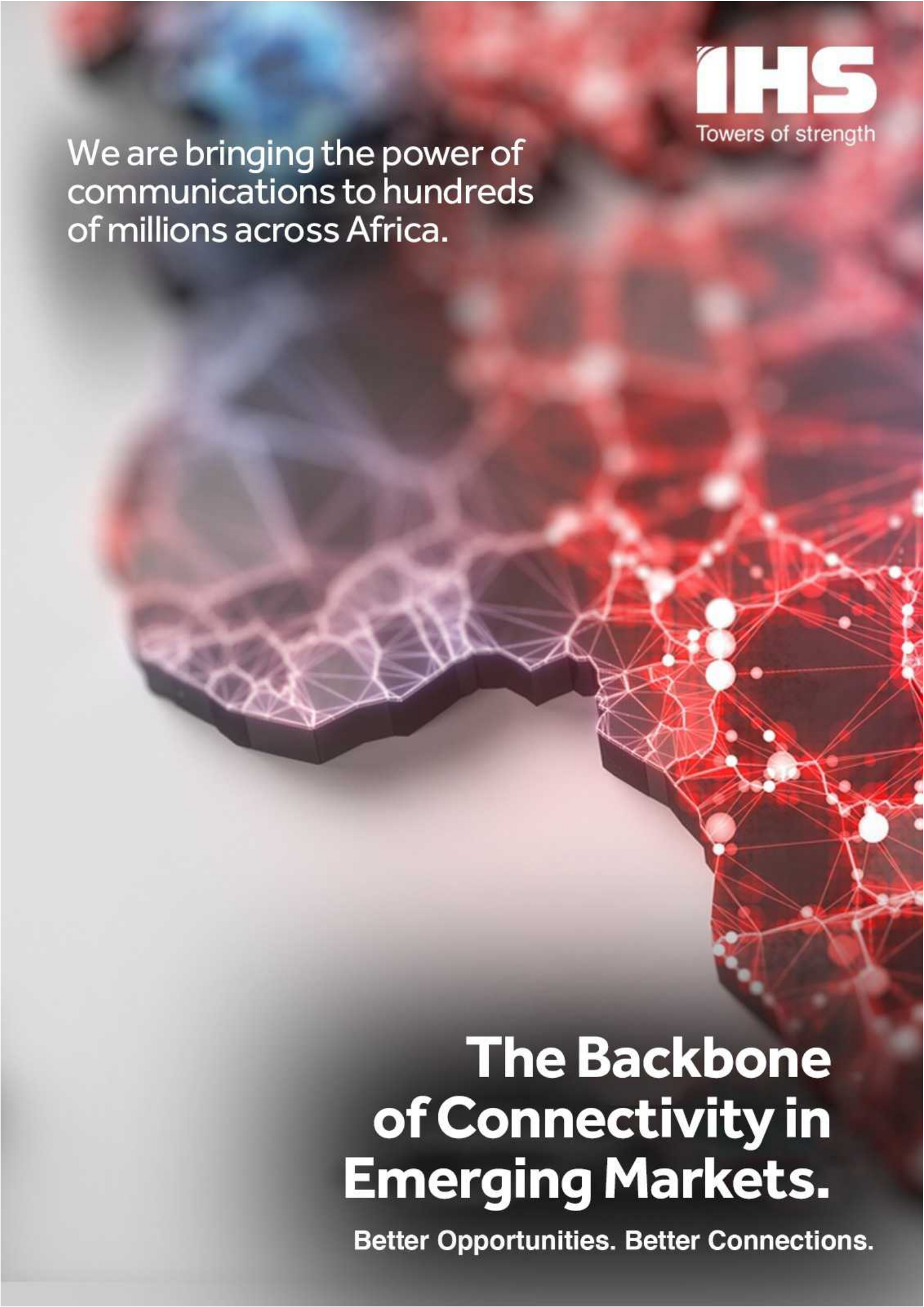
The World Health Organization, for instance, released recommendations for AI in healthcare, warning that AI systems can produce inaccurate or biased outputs that must be carefully monitored by humans.28

Conclusion

Across all sectors, the theme of legal accountability for AI is the same: organizations must anticipate that they will be held responsible for the decisions and actions of their AI systems. Whether through corporate liability in negligence, new regulatory compliance duties, ethical oversight requirements, or precedent-setting lawsuits, the use of AI does not eliminate the need for human judgment, transparency, and accountability. Legal systems worldwide are actively adapting to ensure that as we delegate more decisions to algorithms, there is always a responsible party and a path to redress when things go wrong. By understanding the evolving legal frameworks – from corporate risk management and insurance, to GDPR and the AI Act, to court rulings and industry-specific laws – stakeholders can better navigate the promises and pitfalls of AI in a responsible, compliant manner.

Ultimately, maintaining human oversight and ethical practices in AI deployment is not just a moral imperative but a legal one, forming the cornerstone of trustworthy AI innovation in the years ahead.

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Attaining Nigeria's Blue Economy Development Potentials through Stringent Regulation of Illegal, Unreported and Unregulated (IUU) Fishing.

Introduction

In August 2023, Nigerian President Bola Ahmed Tinubu established the Ministry of Marine and Blue Economy, which is led by Hon. Minister Gboyega Oyetola. This emphasizes Nigeria's desire to capitalize on the tremendous economic prospects that her marine space offers. This puts the country on level with other African countries such as South Africa, the Seychelles, and Mauritius, where the blue economy is already being cultivated. For example, in the Seychelles, tourism, mostly marine tourism, contributes approximately 16.5% of total GDP.

The phrase 'blue economy' originated at the Rio+20 United Nations Conference on Sustainable Development, which took place in Rio de Janeiro in June 2012. In this sense, the Blue Economy (BE) represents reliance on the oceans as the Next Great Economic Frontier.[1] Since November 24, 2023, the blue economy has gained widespread acceptance as an alternative economic model for sustainable growth through the ocean. In the international arena, BE is aptly captured in the United Nations (UN) Sustainable Development Goals (SDGs) as objective 14.



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Continental policy instruments in Africa, such as the African Union's Agenda 2063, the 2014 Africa's Integrated Maritime Strategy (2050 AIMS), and the 2014 Policy Framework and Reform Strategy for Fisheries and Aquaculture in Africa (PFRS), have also recognized the Blue Economy (BE). These instruments have cleared the way for the BE's inclusion in regional maritime security treaties such as the 2016 African Charter on Maritime Security, Safety, and Development in Africa (Lomé Charter). This is viewed as a step toward attaining equitable growth and sustainable development in Africa.

Nigeria's Blue Economic Potentials

Nigeria has a fairly long-stretch of coastline and an abundance of maritime resources. Exploiting its blue economy could result in a move away from its traditionally oil-dependent economy, as well as job creation, industrialization, and economic growth. Nigeria's coastline is approximately 853 kilometers long, and its exclusive economic zone extends 200 nautical miles into the Gulf of Guinea.

Furthermore, the government has lately increased its continental shelf by 16,300 square kilometers. The shoreline and ocean area collectively cover 290 square kilometers, accounting for about one-third of Nigeria's land area of 924 square kilometers.[2]

The Niger Delta area of Nigeria is strategically significant and accounts for 80% of Nigeria's coastline. It is rich in oil and biodiversity. Nigeria is home to one of the world's largest wetlands, covering an area of 70,000 square kilometers with diverse coastal and marine habitats. These habitats support a wide range of flora and fauna, including fish, woodlands, aquatic plants, coral reefs, and aquatic birds. Several notable rivers, such as the Niger, Benue, Gongola, and Sokoto, flow through the country, which is bordered to the south by the Atlantic Ocean and to the northeast by Lake Chad.[3]

Nigeria has a mixed economy, and its marine industry plays a significant role due to its status as a major oil producer and exporter. With the right policy frameworks, the blue economy can contribute to employment creation, increased food security, tourism, infrastructure development, green energy, smart cities, and ports.[4] If properly utilized through supportive policy frameworks, both existing and emerging industries and sectors within the blue economy can contribute to creating jobs, enhancing food security, promoting tourism and infrastructure



Ships and Ports

development, fostering green energy, building smart cities, and improving ports, among other opportunities.[5] The potential of Nigeria's blue economy to generate revenue, create jobs, and ensure food security are all crucial aspects of its significance. The Nigerian Maritime Administration and Safety Agency (NIMASA) has estimated that Nigeria's untapped blue economy potential is valued at $296 billion in terms of potential revenue that the sector could generate.[6]

The Deep Blue Project's Maritime Security Unit has set an ambitious goal to bring in $7 trillion for the country through the Blue Economy. As long as the revenue is used responsibly, Nigeria can achieve economic emancipation and increase national income by effectively utilizing the blue economy. The blue economy[7] is expected to create many job opportunities in various industries and contribute over $1.5 trillion to the global economy. Nigeria, with over half of its population under the age of 20, has a large pool of human capital. If properly trained and involved, this human capital has the potential to transform Nigeria into a sustainable beneficiary of the blue economy by creating jobs and wealth. Additionally, women make up 50% of the global fishing workforce. With access to modern technology, adequate funding, and market opportunities, Nigerian women could potentially develop a multibillion-dollar blue economy, thereby helping to reduce poverty.[8]

The Role of Enabling Laws in the Realization of Nigeria's Blue Economy

The adoption of a robust legal framework designed to proactively anticipate and tackle potential challenges is a crucial factor that can impact the success of the blue economy. However, this task is often complex due to the multi-layered and multidimensional nature of the regulatory framework governing the marine industry under the United Nations Conventions on the Law of the Sea (UNCLOS).[9]

It is often challenging to navigate the complex legal framework of the maritime industry under the UNCLOS due to the existence of other international conventions overseen by the International Maritime Organization (IMO) and their adaptation at the national level. However, coordinated efforts are necessary to ensure a coherent and effective framework.[10] To exploit the blue economy in Nigeria, the rules governing resource exploration in each maritime sub-sector must be modified to identify the unique issues that such a sector has experienced over time. Furthermore, legislation must be strengthened to handle current and future concerns that threaten sustainability. The first step is to sign applicable regional and international law agreements governing such sub-sectors, then domesticate and enforce those instruments as law in accordance with Nigeria's dualist philosophy.[11]

The Role of the Fishing in Nigeria's Blue Economy

The fishing industry is critical to the human security of coastal and other states. Fish are important to the marine ecosystem because they provide food, work, and revenue. Fisheries encompass all of the operations involved in the production of fish and other aquatic resources with the primary goal of providing human food.[12] The fishing industry plays a significant role in Nigeria's economy due to its nutritional value, revenue potential, and job creation. Nigeria boasts 853 kilometers of coastline and a vast continental shelf spanning 43,514 km2, which has recently been expanded. These geographical features contribute to fishing being an important source of foreign income for the nation.[13]

However, currently, Nigeria is not fully utilizing the fishery resources within its maritime borders. In 2020, the fishing industry accounted for 1.09% of the nation's GDP, while in Q3 of 2021, it accounted for 0.9%. Nigeria is a net importer of fishing products. Apart from fish fillets and other fish meat, the country imported frozen fish worth about $876,081,485.00 million in 2020, but only generated $106,964.00 thousand in exports..[14]

The nation still imports seafood since it depends on it for sustenance. The Minister of Agriculture and Rural Development of Nigeria estimates that the country's total fish production is 1.123 million metric tonnes of which 36% comes from marine catches, 33% from interior waters, and 31% from aquaculture. [15]

According to reports, Nigeria's annual fish demand is over 2.1 million metric tons, with the country only meeting 38.1% of its fish demands and relying on imports to supply the remaining 61.9% of its population's needs. In 2021, the Nigerian Ministry of Agriculture and Rural Development set the country's fish demand at 3.6 million metric tons, of which the country only meets 31.19% and relies on imports to fill the vast gap of roughly 68.80%.[16] To fulfill Nigeria's predicted annual average per capita fish consumption of 13 kg, efforts must be made to maximize the fishing industry's role as a critical component of the country's blue economy.

The Illegal, Unreported and Unregulated Fishing Threat to Nigeria's Blue Economy

Illegal, unreported, and unregulated (IUU) fishing is a prevalent crime at sea. The Food and Agriculture Organization (FAO) defines unlawful fishing as "by national or foreign vessels in waters under the jurisdiction of a state, without that state's permission, or in violation of its laws and regulations." It also includes vessels that fish in violation of other national or international laws or commitments, especially on the high seas.[17]

Unreported fishing refers to activities that have not been reported or have been misreported to the relevant national authority in violation of national laws. While unregulated, fishing is conducted in the areas of application of a relevant regional fisheries management organization by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity in a manner that is inconsistent with or violates that organization's conservation and management measures.[18]



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Illegal fishing is projected to cost up to USD 23.5 billion per year, while other fisheries-related crimes result in even greater financial damage. Illegal fishing has been linked to various types of transnational organised crime at sea.[19]

Nigeria is one of the six countries, along with Columbia, Ecuador, Mexico, Nicaragua, and Mexico, where IUU fishing is extremely prevalent and endangers ongoing efforts to ensure long-term sustainable fisheries as well as to foster a stronger and more robust ecosystem. Over 450 Chinese vessels are reportedly engaged in illicit fishing in Nigeria, with trawlers conducting this activity at night. This excludes foreign vessels and artisanal fishing in Nigeria's coastal regions of Bayelsa, Akwa Ibom, and Cross Rivers States, as well as inland waterways in areas like Badore and Epe in Lagos State that connect rural waterways to the Gulf of Guinea.[20] Illegal exploration of Nigerian waters is significant, resulting in annual costs ranging from $600 million to $800 million. According to Agbakoba, vessels from China, the European Union, and Belize have been unlawfully using Nigerian waters.[21]

The likelihood of having a thriving fishing industry through the ministry of Blue economy is dependent on combating IUU fishing. This can be achived through a sound and robust legal infrastructure.

Issues Undermining the Efficiency of IUU Fishing Laws in Nigeria

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) introduced significant changes in the global fishing sector during the latter half of the 20th century. However, there are gaps in UNCLOS which is often taken advantage of to perpetrate IUU fishing. UNCLOS is silent on matters like unlicensed fishing, fishing outside of the designated season, using prohibited fishing gear, and

disregarding fishing quotas.[22] Additionally, foreign fishing vessels at times operate without the consent of the coastal state, engaging in unauthorized fishing or breaching the access conditions set by the coastal state.[23] Majority of IUU fishing occurs in high seas or in EEZs owned by states that lack the resources to adequately police their waters.

To address the limitations of UNCLOS, the International Plan of Action to Prevent, Deter, and Eliminate IUU Fishing (IPoA-IUU) was adopted by the FAO in 2001. This served as the framework for the ratione materiae used to combat IUU fishing.

Although their rules are not legally obligatory, they have been included into many legislative documents created at both regional and national levels.[24] But since it was adopted on November 22, 2009, within the framework of the FAO, this legal framework has advanced greatly with the Agreement on Port State Measures to Prevent, which deters and eliminates illegal, unreported, and unregulated fishing.[25] However, because international legal instruments often lack the binding force, the onus is respective port, coastal and flag states to adopt the international instruments and ensure their enforcement.

A major challenge undermining the efforts to combat IUU fishing in Nigeria is the outdated domestic law which is also poorly implementnted.

As regards keeping of register for instance, by the provision of UNCLOS Article 94 and 94(a), both coastal states must maintain a register of all fishing vessels under their jurisdiction, while flag states shall maintain a register of national vessels authorized to fish outside their borders. This places Nigeria under obligation to enact laws to maintain a register of both national and foreign industrial vessels authorized to fish in its waters. However, Nigeria is one of the West African states that lacks a specific



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law requiring the keeping of a register of all licensed vessels. Instead, vessel registration is governed by Nigeria's 2007 Merchant Shipping Act and Regulations. Although Section 1 of the Act prescribes the licensing of fishing vessels, it lacks details regarding its implementation.

There are obligations under the 1995 UN Fish Stocks Agreement, which entered into force in 2001, aimed at ensuring the long-term conservation and sustainable use of straddling and highly migratory



Dialogue Earth

fish stocks. As for enforcement, fisheries legislation is enforced by any authorized person, including a licensing officer, any commissioned officer in the Nigerian Army, Navy or Air Force, a police officer not below the rank of assistant superintendent of police, a customs officer not below the rank of assistant preventive superintendent, a surveyor or examiner appointed under the provisions of the Merchant Shipping Act, or any other person authorized in writing by the minister in charge of fisheries. However, Section 9 of the Sea Fisheries Act grants enforcement officers excessive power to board, search and examine any motor fishing boat licensed to fish or fishing in Nigerian waters, and require the exhibition of the license, fishing apparatus, and catch. In case of suspicion, they may take the alleged offender to the most convenient port or police station. Fishing vessels and gear may be detained pending the trial. The act considers the size of Nigeria's continental shelf in this context.

Section 8 of the Sea Fisheries Act requires the owner of a licensed vessel to provide periodic reports on the vessel's operations to the fisheries administration. Additionally, Section 6 of the Act states that all fish caught by



The Conversation

a motor fishing boat within Nigeria's territorial waters or its EEZ must be landed at a Nigerian port and not exported or shipped away from Nigeria at sea. These provisions are outdated and need to be reviewed. Furthermore, the penalties for illegal, unreported, and unregulated (IUU) fishing are inadequate, with the law prescribing a fine of only 500 naira or a maximum of six months' imprisonment. This allows perpetrators to escape with minor consequences. International legal instruments often lack binding force, making it the responsibility of respective port, coastal, and flag states to adopt these instruments and ensure their enforcement. To address these issues, it is recommended that relevant laws be updated to reflect current realities, and the Maritime Zone Bill be passed into law to better protect Nigeria's aquatic resources in the context of developing the blue economy.[26]

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Assessing Policy Gaps In Nigeria's Solid Waste Management Framework.

Introduction

Solid Waste Management (SWM) is a crucial component of sustainable development and environmental conservation globally (Batista et al., 2021). When improperly disposed of, solid waste can cause environmental degradation and lead to disease outbreaks (Batista et al., 2021). In Nigeria, the disposal of solid waste remains a persistent challenge amid growing urbanization (Sylvester and Ikudayisi, 2021). Limited waste management facilities and a weak regulatory framework exacerbate the problem (Sylvester and Ikudayisi, 2021). According to the World Bank (2023), Nigeria generates an estimated 32 million tons of solid waste annually, with 59.3% from informal disposal in open spaces, 28.7% from household disposal, and 8.7% from industrial sources.



Oluwaseyi Ebenezer
Chair, Committee on Natural Resources, Energy and Environment Law, ILA, Nigeria Branch

Recycling and reusing waste are not widely practiced in Nigeria (Ezeudu et al., 2021). One of the primary reasons for ineffective SWM is the policy gaps in existing frameworks, which, although extensive, suffer from poor enforcement and fail to promote a culture of proper waste management (Ogunkan, 2022). This article critically analyzes Nigeria's current SWM policies and legal framework to identify gaps, assess their implications, and propose necessary reforms based on international best practices.

Overview of Existing Policies and Laws

Nigeria has several policies and legal frameworks regulating SWM. As a federal state, its legal framework includes Acts of the National Assembly, executive directives from statutory agencies, state laws, local government regulations, and byelaws.

One of the most recent policies on SWM is the National Policy on Solid Waste Management (2020), which aims to create a safe, integrated, and economically viable waste management system. The policy highlights challenges such as inadequate legislation, weak political will, poor enforcement, and insufficient penalties (National Policy on Solid Waste Management, 2020). It also emphasizes regular assessments and technological innovation to improve waste management.

The Federal Environmental Protection Agency (FEPA) Act initially regulated



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SWM in Nigeria but was repealed due to enforcement deficiencies. It was replaced by the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act (2007), which established NESREA to monitor compliance and recommend environmental standards (Mustapha, 2022). NESREA also supervises waste disposal among households and industries and facilitates e-waste collection centers in collaboration with local agencies (Mustapha, 2022).

A significant regulatory addition is the National Environmental (Sanitation and Wastes Control) Regulations (2009), which provides guidelines for proper waste disposal by households

and industries (Pona et al., 2021). It includes licensing criteria for private waste management companies and mandates periodic community reports for compliance assessment (National Policy on Solid Waste Management, 2020). The regulation also criminalizes improper waste disposal, prescribing fines and imprisonment (National Environmental (Sanitation and Wastes Control) Regulations).

However, enforcement remains a major challenge, primarily due to corruption and selective application of regulations, particularly for industrial waste management (Lakai, 2021). Government officials often embezzle funds meant for waste infrastructure, while waste officials sometimes accept bribes instead of enforcing penalties (Lakai, 2021). These challenges contribute to low compliance rates, particularly among industrial firms in the Niger Delta region (Nwaichi and Osuoha, 2022).

Additional waste management legislation includes the Environmental Impact Assessment (EIA) Act (1992) and the Harmful Wastes (Special Criminal Provisions, etc.) Act No. 42 (1998). The EIA Act mandates environmental assessments for landfill developments but imposes penalties that are too weak to deter violations. The Harmful Wastes Act, passed after the Koko toxic waste incident, criminalizes unauthorized disposal of hazardous materials, with violators facing up to life imprisonment and asset confiscation (Yahaya and Kehinde, 2023).



Research gate

Nigeria is also a signatory to several international agreements, such as the Basel Convention, Stockholm Convention (2001), and Minamata Convention (2018). Under the Nigerian Constitution, ratified treaties hold domestic legal status (Okeke and Anushiem, 2018). However, Nigeria has struggled with enforcement, and most citizens remain unaware of these conventions (Olujobi et al., 2022).



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Identified Policy and Legal Gaps

Despite numerous laws and policies, SWM in Nigeria remains inefficient due to significant policy and legal gaps:

- Weak enforcement mechanisms: Regulatory agencies lack technological resources, compliance monitoring, and transparent enforcement (Ogunkan, 2022).
- Lack of coordination among federal, state, and local authorities: Federalism creates inconsistencies in SWM policy implementation across different regions (Ogunkan, 2022).
- Punitive rather than incentive-based enforcement: Current policies penalize improper disposal but fail to reward compliance or encourage sustainable practices (Eberinwa, 2023).
- Limited recycling infrastructure: As of 2024, Nigeria has only 33



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recycling companies and 26 recycling plants, which are insufficient for a country of 223.8 million people (Nwafor et al., 2024).

Additionally, there is a lack of public awareness and participation in SWM initiatives. Many citizens remain unaware of the environmental and health hazards of improper waste disposal. Educational campaigns and public engagement efforts are limited, resulting in weak compliance with waste regulations.

Furthermore, informal waste pickers, who play a crucial role in recycling efforts, are often excluded from formal waste management policies, leaving them vulnerable to exploitation and unsafe working conditions (Albert and Olutayo, 2021).

Another major gap is the absence of adequate financial and technical support for local waste management authorities. Many local governments lack the necessary resources to implement and sustain effective SWM programs. Limited funding affects the availability of waste collection services, infrastructure maintenance, and expansion of recycling initiatives. Without proper investment, waste management efforts remain fragmented and largely ineffective (Adekola et al., 2021).

Implications of Policy Gaps

The gaps in Nigeria's SWM policies have significant consequences for the environment, public health, and economic development. Weak enforcement mechanisms and lack of proper waste disposal practices lead to widespread environmental degradation, including air, water, and soil pollution. The contamination of water bodies and landfills threatens biodiversity and exacerbates climate change (Benjamin and Benjamin, 2023).

Furthermore, inadequate SWM policies pose serious public health risks. Open dumping of waste creates breeding grounds for disease-carrying vectors, increasing the risk of cholera, malaria, and typhoid outbreaks (Benjamin and Benjamin, 2023). These diseases, which are already prevalent in Nigeria, have high fatality rates, especially in communities with poor sanitation infrastructure (Adebowale-Tambe, Ileyemi, and John, 2024).

Moreover, poor waste management disproportionately affects low-income communities that lack access to waste collection services. These communities often become dumping grounds for urban waste, leading to further health and environmental hazards (Adekola et al., 2021). The uneven implementation of SWM policies exacerbates social inequality and can fuel tensions between marginalized groups and policymakers.

Additionally, Nigeria's reliance on punitive measures without positive reinforcement strategies creates a significant compliance gap. Waste disposal behaviors are deeply ingrained, making punitive approaches less effective without educational campaigns to promote behavioral change (Albert and Olutayo, 2021). Without public awareness programs and community incentives, compliance with SWM regulations remains low (Angela and Onwudinjo, 2023).

Global Best Practices for Sustainable SWM

To address Nigeria's SWM challenges, policymakers should adopt global best practices from jurisdictions with effective waste management systems. These strategies, when adapted to Nigeria's context, can significantly enhance waste management efforts.

One notable approach is the Bottle Deposit Scheme (BDS), widely implemented in developed nations. In England and approximately 21 U.S. states, BDS requires consumers to pay an extra charge on items packaged in plastic, glass, or metal. The deposit is



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refunded when the containers are returned for recycling (Reality Check Team, 2018). If adopted in Nigeria, this initiative could enhance accountability in waste disposal while creating economic opportunities for waste collectors. According to a 2018 UK parliamentary report, countries with BDS achieve 80% to 95% recycling rates (Parliament UK, 2024). Its implementation in Nigeria could drastically reduce littering and foster a recycling culture.

Another effective strategy is Extended Producer Responsibility (EPR), which mandates manufacturers to manage the life cycle of their products, including post-consumer waste. This policy, successfully enforced in Japan and Canada, ensures that companies take responsibility for waste recovery, recycling, and proper disposal (Tumu, Vorst, and Curtzwile, 2023).

Implementing EPR in Nigeria would encourage eco-friendly product design, reduce waste generation, and promote sustainable production. Offering tax incentives and financial relief could further drive compliance among manufacturers.

Additionally, public-private partnerships (PPPs) should be strengthened to expand waste collection and recycling infrastructure. Governments should offer subsidies, tax breaks, and incentives to waste management companies, thereby reducing operational costs and attracting more private-sector participation. Establishing more recycling centers and waste collection points across urban and rural areas will facilitate improved waste management practices.

Recommendations for Policy Reform

Despite the multiple laws and policies in Nigeria on SWM, significant gaps hinder their effectiveness. To address these gaps, conscientious efforts should be taken by relevant stakeholders to improve the mechanisms for policy enforcement. This includes incentivizing sustainable SWM behaviors among individuals and industries, ensuring compliance through targeted public education, incentives, and stricter regulatory enforcement.

A coordinated approach between federal, state, and local authorities is essential for effective waste management. Establishing a National Waste Management Council will enhance collaboration, streamline enforcement, and promote uniform policy implementation across various levels of government. Furthermore, the adoption of proven best practices such as BDS and EPR policies will significantly improve waste management outcomes.

Other recommendations include:

- Strengthening enforcement mechanisms through increased funding, personnel training, and technology integration.
- Enhancing coordination among relevant agencies by establishing a National Waste Management Council to improve intergovernmental cooperation.
- Providing incentives for businesses



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engaged in waste management, including tax benefits, financial grants, and reduced regulatory burdens.

Conclusion

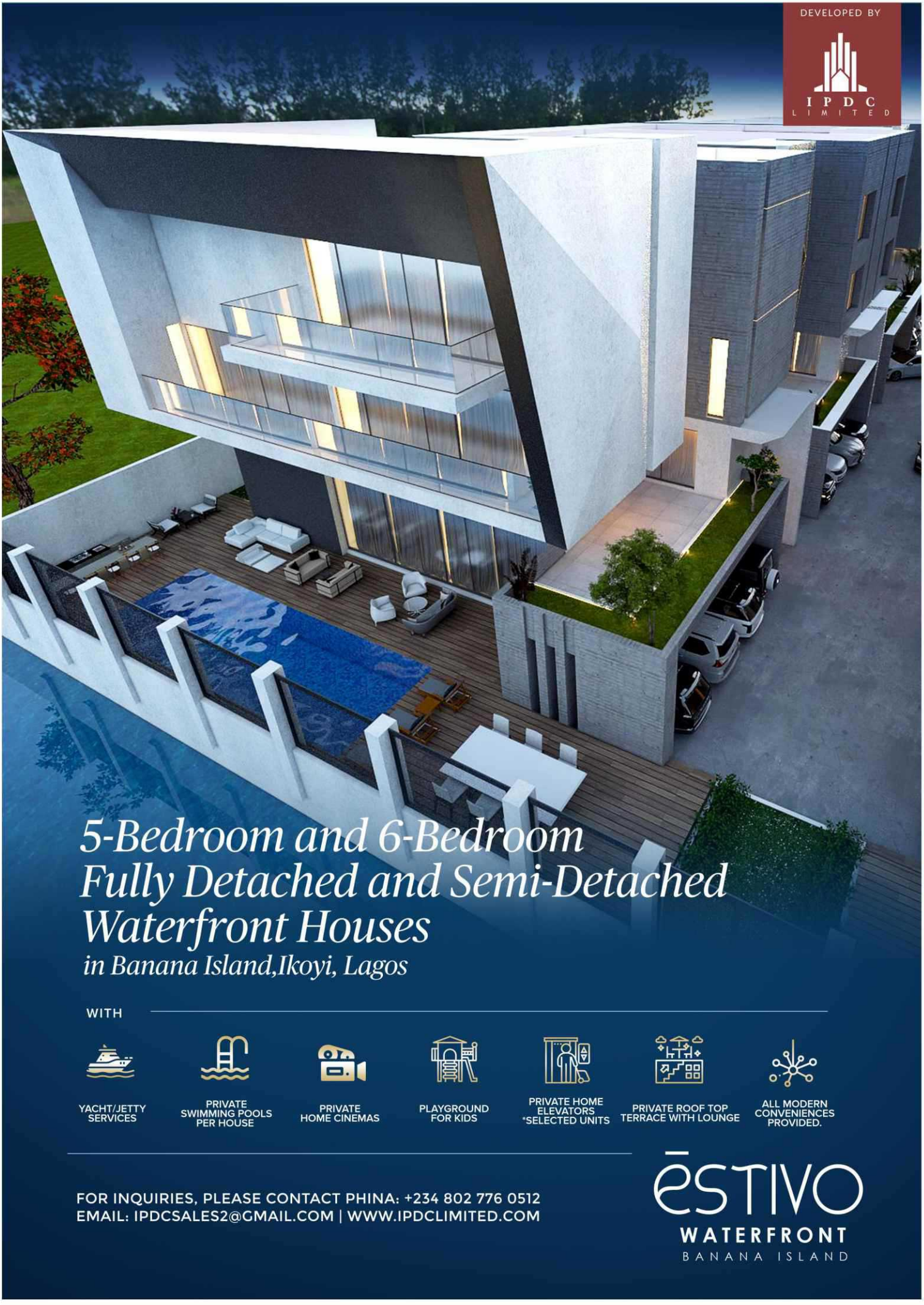
Solid Waste Management (SWM) in Nigeria remains a critical issue that demands urgent and strategic intervention. While Nigeria has established numerous policies and legal frameworks to regulate waste management, significant gaps in enforcement, coordination, and infrastructure continue to impede progress. Addressing these challenges requires a holistic approach that integrates policy reform, technological advancement, and behavioural change among citizens.

The adoption of global best practices such as the Bottle Deposit Scheme (BDS) and Extended Producer Responsibility (EPR) will reduce waste generation at the source and promote a circular economy. Public-private partnerships (PPPs) should also be leveraged to improve waste collection, recycling, and disposal systems through incentives, funding, and infrastructural support.

Furthermore, strengthening institutional frameworks through the establishment of a National Waste Management Council will facilitate efficient coordination between federal, state, and local governments, ensuring uniform implementation of policies. Public awareness campaigns and community engagement initiatives are also essential in fostering a culture of responsible waste management.

If Nigeria takes decisive action by implementing these reforms and best practices, the country will witness improved waste management efficiency, a healthier environment, and a sustainable future. By prioritizing SWM, Nigeria can mitigate climate change, protect biodiversity, and enhance the quality of life for its citizens while contributing to global environmental conservation efforts. Ultimately, a comprehensive and well-executed SWM strategy will pave the way for a cleaner, healthier, and more sustainable Nigeria for future generations.

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