

**AJAYI CROWTHER UNIVERSITY
OYO**

20TH INAUGURAL LECTURE

**Title:
FISHING IN POISONED WATERS: THE LAW AS A WEAPON
TO COMBAT ENVIRONMENTAL DEGRADATION IN
NIGER DELTA**

Delivered by

VENERABLE PROFESSOR GAIUS EMAMUZOU OKWEZUZU
B.A., M.A., LL.B., (Benin), B.L., MLD, LL.M., Ph.D, (Abraka), Dip. Th. (Okene)
Professor of Law

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The 20th Inaugural Lecture was delivered under the
Chairmanship of:

Rt. Rev. Prof. Dapo F. Asaju,
B.A., M.A, Ph.D (Ilorin)
Vice-Chancellor

17th September, 2020

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VENERABLE PROFESSOR GAIUS EMAMUZOU OKWEZUZU
B.A., M.A., LL.B., (Benin), B.L, MLD, LL.M., Ph.D, (Abraka), Dip. Th. (Okene)
Professor of Law
Ajayi Crowther University, Oyo

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NIGER DELTA

1.0 Protocols

The Vice Chancellor,

The Vice-Chancellor, KolaDaisi University,

Members of the Governing Council,

The Deputy Vice Chancellor,

The Registrar,

The Bursar,

The University Librarian,

Deans of Faculties, Postgraduate School, Students' Affairs, and
Directors,

Professors, Heads of Departments/ Units, and Members of Senate,
Eminent Guests from Sister Universities,

My Lords Spiritual,

The Commissioner of Justice and Attorney-General, Oyo State,

The Solicitor-General, Oyo State,

Members of the Inner and Outer Bar,

My Family Members

Distinguished Guests Present and Past Students of the Faculty of
Law, Ajayi Crowther University,

All other ACU Students,

Gentlemen of the Press,

Ladies and Gentlemen.

2.0 My Academic Peregrinations: All by the Grace of God

Mr. Vice Chancellor Sir, the Bible Says, “By the grace of God I am what I am.” These words originally spoken by Apostle Paul in 1 Corinthians 15:10 are entirely true in my life and career. Indeed, it is by His grace alone I stand before this august audience to present the 20th Inaugural Lecture of Ajayi Crowther University and the 3rd from the Faculty of Law, this 17th day of September, 2020. The Lord “spoke, and it was done; He commanded, and it stood fast” (Psalm 33:9). He has been the Strength of my life, my Good Shepherd, my Light and Salvation, my Refuge and Help, my Shield and Glory, the Lifter-up of my head, the Pillar that holds my life, and my All in all. Indeed, my being what I am today is all by the grace of God. To HIM be all the glory, honour, majesty, adoration, praises, and thanksgiving for ever and ever! Amen!

Weighty Words of a Wise Father

My determination and tenacity to attain great heights in academics can be traced to my parents. In His love and goodness, the Lord blessed me with special parents: my father, Rev. Canon E. B. Okwezuzu (of blessed memory), spent fifty-two years serving in the Lord’s vineyard from the lowest rung as a Church Teacher in the Anglican Church and rose to become a Reverend Canon before he retired and went to be with the Lord in 1996. My mother, Mrs Ruth Oniovoghae Okwezuzu, was a full time house wife before she went to teachers’ training college. She became a Grade II teacher and taught for many years until she retired as a Headmistress. They both esteemed education very highly and brought me and other children up in the love of biblical discipline.

As I was growing up, my father once said to me: “Gaius, I will train you to any level your brain can take you even if I walk about naked.” I found these words so profound and so painfully touching. The idea of my father going about his ministry without clothes to wear yet sacrificially and totally committed to sponsoring my education was not only pleasantly frightening but served as great inspiration and motivating force that propelled me in the pursuit of my many and varied academic programmes. Indeed, in the course of my academic peregrinations, I witnessed many classmates falling

by the way side but the shepherding hands of God and the inspiring words of my father kept me on to finish up each programme I started. These words still ring loudly in my memory till date and I am eternally grateful to my sagacious father. It is noteworthy that in appreciation, I dedicated my Master of Arts (MA) research work to this saint triumphant who rested from his labour when I was concluding my MA programme in 1996 at the University of Benin, in the following words:

To memorialize

The RE V. CANON ELISHA BOE OKWEZUZU

of blessed memory:

he spent and was spent
to lift me up to lofty heights in academics,
but departed to the NEW JERUSALEM above.

when I was arriving

My Journey into Law

Mr. Vice Chancellor Sir, it is important to dwell briefly on my foray into Law. It all began after my outstanding performance in my West African School Certificate Examination at Notre Dame College, Ozoro in Delta State. My burning desire was immediately to gain admission into University of Benin to study Law. My first shot at the Joint Admission and Matriculation Board (JAMB) examination was good but could not get me into Law in spite of all efforts. Then I proceeded to Government College, Ughelli for the Higher School Certificate (HSC) programme with the mind that it would serve a dual purpose of also preparing me for the Joint Matriculation Examination. But to my utmost dismay, I discovered that the curriculum had nothing to do with the syllabus of the Joint Matriculation Examination. Though my second attempt at the Joint Matriculation Examination was very good, I still was not offered admission into Law in University of Benin. After some time in the HSC programme, in frustration, I communicated with my father and convinced him of the need to leave the school as the curriculum

was not giving me fulfillment and that I would prefer a place where I could really prepare for the Joint Matriculation Examination; and that he should come over to take me back home. On a cool day, while school was still in session, my father drove into the premises of Government College, Ughelli. With the assistance of some friends, my belongings were conveyed into my father's car. Waving to my friends as my father drove out of the school compound, my journey in the HSC programme at Government College, Ughelli ended. Thereafter, I left for Lagos where I prepared for the Joint Matriculation Examination at the Blossom JAMB Preparatory Center. I made my third attempt. This time, I did not choose Law but English and Literature as my first choice course. I eventually gained admission into the Department of English and Literature, University of Benin with the highest JAMB score in the department in 1987. Even though my score was higher than the cut-off mark for Law that year, I did not pursue admission into Law. I settled for English and Literature. I soon got so immersed in my studies in English and Literature that I left off my interest in Law. It was in 1997, after obtaining my MA in English and Literature that my appetite for Law was provoked afresh, leading to my admission into Law in the University of Benin.

Armed with linguistic and literary background, Mr. Vice Chancellor, I started the adventurous but exciting voyage into the field of Law, passing through deep valleys, high mountains, at times sailing through deep blue seas with violent contrary winds often and with ferocious giants on the way to the top. But in all, my Good Shepherd, the Lord God Mighty in Battle, the Keeper of Israel Who neither slumbers nor sleeps, guided me, prevailed for me, and has led me thus far, all by His grace alone. Hallelujah!

Destiny Helpers Along the Way

In the course of my adventures in Law, the good Lord placed some destiny helpers on my way. Mr. Vice Chancellor Sir, permit me to talk about some of them. To start with, after my LL.B in University of Benin, because of some harrowing personal experiences I had in the course of my studies, I was in a state of despondency and was not excited about going to the Nigerian Law School. One day, I

visited a beloved friend and father, who later became a Vice Chancellor of Benson Idahosa University, Professor G.E.D. Omuta, then in his office at the University of Benin. He asked about my plan for Law School. I told him that I already had my MA in English and Literature with which I was gainfully employed then in Benson Idahosa University, Benin City as a lecturer; and since going to Law School had become so competitive, I would like some younger person to take the slot that could have been given to me. He frowned at such line of reasoning and responded by rebuking and asking me: “Then why did you go and study Law in the first place?” He immediately took a plain sheet of paper and carefully drafted something on it, handed it to me and asked me to go and give it to the then Dean of Law to issue me a form for the Law School. In deference to him, I left his office in the Department of Geography and Regional Planning, University of Benin, to deliver the note to the then Dean of Law wondering what such a note could do to fetch me a Law School form at a time so many students could not get one. On getting to the Office of the Dean of Law, when the Dean heard that I was from Professor Omuta, he quickly asked me to be allowed in. By the time he read through the note, I could see an expression of impossibility on his face. After a long pause, he picked a paper on his table and handed it to me asking me to greet ‘Prof’. To my great surprise it was the Law School form! That was how I had an open door to proceed to the Law School.

After my Law School programme at Enugu Campus, I proceeded to Delta State University, Oleh Campus where I did my MLD¹, LL.M, and Ph.D programmes. During those years, I was taught by great scholars in the persons of Professor MOU Gasiokwu (of blessed memory), Professor Festus Emiri, and Professor O. K. Edu. Professor Gasiokwu did not only teach me during my MLD programme, he supervised my dissertation and also supervised my Ph.D thesis titled “The Environmental Challenges to Human Rights in Niger Delta Nigeria.”² He spotted me in the crowd among my classmates in the course of my seminar presentations in the Human Rights class right from my days in the MLD program. Even though he was such a distinguished legal scholar of great repute, he condescended to men of low estate. In fact, while I was a “nobody”, he encouraged me by

collaborating with me in writing several scholarly articles. Proceeding from the womb of our collaboration are the following articles: “Belligerency and the Right of Self Determination in International Law: Some African Illustrations” (2010);³ “Human Rights-Based Approach to Environmental Protection in Various Regions and Constitutions of States: The Journey So Far” (2012);⁴ “International Environmental Protection: UN Efforts Before and After Kyoto Protocol” (2013).⁵ Mr Vice Chancellor Sir, I started University teaching in English and Literature in 1998 after my MA degree and attained the rank of Senior Lecturer, by the grace of God. But, in spite of the great scholars in English and Literature around me then, I groped in the dark in quest for how to publish articles for ten years before I could publish the first one out of sheer personal struggle. But in this case, while I was still in pursuit of my MLD as a student, Professor Gasiokwu spotted me, put me under scholarly apprenticeship, and groomed me to become a fruitful legal scholar. We were not consanguineous in relationship by any means. We did not hail from the same ethnic group; Professor Gasiokwu was Ibo while I hailed from Isoko land. Our indigenous languages lacked mutual intelligibility. I was a mere post-graduate student struggling to swim out of the river of obscurity; he was a distinguished Professor. Indeed, Professor Gasiokwu was a detribalized Nigerian, a rare academic discipler, an excellent supervisor, a great encourager and a mentor per excellence worthy of emulation by other academics in Nigeria and in the global academic community. To say the least, he brought the best of Europe to Nigeria. May his memory be blessed!

Mr. Vice Chancellor Sir, permit me to say a few words on Professor Festus Emiri, a world class scholar, blessed with a mighty memory; indeed, a colossus in the field of Jurisprudence. I encountered him in my LL.M days as a student in Delta State University. He taught me “Jurisprudence and Legal Theory” (a course in which I made “A” grade) and he also supervised my LL.M dissertation titled “Global Environmental Concerns in the 21st Century and Progressive Realization Principle.”⁶ He made me to develop legal self-confidence. For reasons best known to him, he developed interest of embarrassing proportion in me. His lectures

were always interestingly interactive. Some of my contemporaries who studied under him are present in this gathering and can testify to this. In all interactive sessions in class, Professor Emiri would certainly ask calling me by my first name: “Gaius, let’s hear your view.” In fact, this made my classmates to start calling me “Prof.” Indeed, one of them regularly referred to me as “The future Dean of Law.” Eventually, Professor Emiri approved a very queer and seemingly difficult topic for my seminar. On the Seminar day, however, at the end of my presentation, Professor Emiri banged at the table in excitement and declared: “This is very good! Even many of my colleagues in the Faculty cannot write such a paper!” He remarked that the paper is publishable and was indeed later published in 2010 as a journal article in the University of Benin under the title “Henderson v. Merrett Syndicates Ltd: An Evaluation in the Context of Concurrent Remedies in Tort and Contract.”⁷ Mr. Vice Chancellor Sir, of all my scholarly publications, none is so sought after like this paper till date. It is so regularly consulted on weekly basis under “academia.edu” (where it is published online) by several scholars in different climes in the global academic community and reports are frequently sent to me via email. This served as a great impetus in my research endeavours.

Inaugural Lecture

Mr. Vice Chancellor Sir, various scholars have expressed varied views about what an Inaugural Lecture is. According to Gasiokwu, “an Inaugural Lecture is an opportunity given to a Professor to tell the whole world what he has been professing, and his contribution to research or advancement of knowledge.”⁸ Black’s Law Dictionary defines Inaugural Lecture as a formal ceremony inducting someone into office.⁹ In my own view, therefore, an Inaugural Lecture is a binding duty performed by an academic to his university and indeed the global community after his appointment as a Professor. It is a formal ceremony where the Professor is formally inaugurated into his chair.

When I mentioned to my friend and father, Professor G.E.D. Omuta, former Vice Chancellor of Benson Idahosa University (BIU), Benin City, that I would be presenting my Inaugural on this day, he was so excited. He said:

“What you are about to do was the classic tradition for professors to deliver their inaugural lectures soon after their appointment.”

He highly commended my Vice Chancellor for being able to establish that culture in Ajayi Crowther University (ACU) from which many universities have deviated. Mr. Vice Chancellor Sir, I am really grateful to you for establishing this tradition and for giving me the opportunity to deliver this Inaugural Lecture so timeously in line with standard university tradition. Ladies and Gentlemen, for establishing this ideal University culture in Ajayi Crowther University, join me to appreciate with a warm hand of applause our world class Vice Chancellor, the Rt. Rev Professor Dapo Asaju.

The Lecture

In legal research and teaching of Law, I have traversed various areas of Law both in my former University – Benson Idahosa University – and here in Ajayi Crowther University, and these include Private and Business Law as well as Public and International Law. However, with my LL.M dissertation and Ph.D thesis on Environmental Law, the ground was very well prepared for my major research area of interest.

Mr. Vice Chancellor Sir, permit me to make reference to the Holy Bible. It is written in Genesis Chapter 1 that in the beginning God created the heaven and the earth and everything therein. God Almighty also created man and woman, gave them the capacity to reproduce, subdue the earth and have dominion over all other creatures. “Then God saw every thing that He made, and indeed it was very good” (Genesis 1:31 NKJV). Furthermore, man was given a mandate to protect this very good divinely created environment:

And the LORD God took man, and put him into the garden of Eden to dress it and to keep it¹⁰ (Genesis 2:15 KJV).

In the above passage, the garden of Eden refers to the earth. The divine mandate therefore to subdue and have dominion over the entire environment goes hand in hand with the mandate to protect

the environment. And this mandate is given to all of human race, including you and me. It is a tragic irony, however, that man who has a divine mandate of protecting the environment is today the greatest cause of contemporary environmental degradation and if this continues unchecked, may make human survival on earth impossible. Mr. Vice Chancellor Sir, I have therefore intentionally chosen the topic “Fishing in Poisoned Waters: The Law as a Weapon to Combat Environmental Degradation in the Niger Delta” with primary focus on the Niger Delta – the headquarters of environmental degradation on earth.

Environment: The Need for Its Protection

A clean and healthy environment is indispensable for human survival. However, there appears to be no unanimity among scholars as to the meaning of the word environment. Bell and McGillivray have admitted that environment “is a difficult word to define.”¹¹ In fact, Einstein has expressed the view that “[t]he environment is everything that isn’t me.”¹² Nonetheless, in the context of environmental law, the environment “may be treated as covering the physical surroundings that are common to all of us, including air, space, waters, land, plants, and wildlife.”¹³ The term environment has also been defined as follows:

The totality of physical/ economic, aesthetic and social circumstances and factors which surround and affect the desirability and value of property and which also affect the quality of people’s lives.¹⁴

Moreover, it is recognized generally that the environment is important and worthy of measures of protection. According to Bell and McGillivray, the concept of ‘the environment’ as a thing that is worth protecting and enhancing only dates back to the 1960s in the UK.¹⁵ However, according to Jelin,

The process of emergence of environmental concerns as an issue – in politics and in society, in the media, in everyday life and in culture, in international and global fora – is very new and still in the making.¹⁶

She reveals that it was in the 1970s that the global “contemporary environmental consciousness” was awakened and since that time the varied issues raised have greatly “increased and diversified”.¹⁷ Consequently, the concern with environmental degradation has ranked highest in international agenda and that degradation is increasingly perceived as anthropogenic, thus, mankind is called upon to face the outcome of its action.¹⁸ It has been asserted that:

The twentieth century was marked by both the recognition and creation of a host of environmental problems. Our twenty-first century bears the burden of resolving these problems and preventing the emergence of more. Optimistically, it would appear that many solutions for prevention and resolution of environmental issues could lie in the same direction.¹⁹

Thornton and Beckwith have posited that besides the problems of climate change, ozone layer depletion, and loss of biodiversity which have attained “great public prominence,” other notable environmental problems such as “the scarcity and poor quality of water in certain countries, pollution of the oceans, flooding, management of biotechnology resources and management of waste” require to be tackled on a global scale.²⁰ The view has been expressed:

With the emergence of international environmental law, the protection of the environment has been considered from a global perspective. Concepts such as sustainable use, biological diversity and climate change have become the subject matter of global research, co-operation and the creation of international regimes of proactive action and protection, particularly where a specific result could not be achieved by a single state – either because a resource was shared (migratory species), a threat could not be effectively tackled singlehandedly (CITES) or a desired goal could not be achieved without concerted unilateral actions.²¹

Ziemer intones that with “increasingly severe and widespread environmental degradation” in the world, “new tools are needed to respond to environmental harm” as “[t]raditional international environmental law has little to offer individuals harmed by such damage.”²² Consequently, individuals “whose health or livelihood is threatened” by environmental pollution, “have little recourse under international environmental laws” and those who are most adversely affected “by environmental degradation are often ethnic minority groups or indigenous peoples who are effectively excluded from political participation or redress under their nation’s laws.”²³

It is worthy to point out, moreover, that one segment of our planet that is subjected to environmental degradation of such life-threatening magnitude is the Nigerian Niger Delta.

Environmental Degradation: A Global Challenge

Mr. Vice Chancellor Sir, though the main focus of the lecture is on environmental degradation in the Niger Delta, it must be pointed out that the problem of environmental degradation is not restricted to the Niger Delta but global in dimension.

Ten Worst Ecocides on Earth

According to The Guardian of 4th May 2010,²⁴ ranging from “floating plastic islands and orbiting space junk to mountaintop removal and deep-sea mining,” the global devastation of “ecosystems is worse now than at any other time.”²⁵ Also, Polly Higgins, the UK environmental lawyer is “advocating a new law at the UN that would recognise ‘ecocide’ as the fifth ‘crime against peace’.”²⁶ Below is a selection of 10 instances “of damage and loss that could be taken to the international criminal court should ecocide become a crime.”²⁷

□ The first is the Alberta Tar Sands:



Photograph: Orjan F Ellingvag/ Corbis.²⁸

Figure 1: Above is a Pictorial Representation of an Aspect of the Alberta Tar Sands.

It is known as the “most damaging project on the planet”.²⁹ Greenpeace has revealed that “emissions from tar sands extraction could grow to between 127 and 140m tonnes by 2020, exceeding the current emissions of Austria, Portugal, Ireland and Denmark.”³⁰ Moreover, it is said that “if proposed expansion proceeds, it will result in the loss of vast tracts of boreal forest and peat bogs of a territory the size of England.”³¹

□ The second is the North Pacific Gyre :

It has been described as a “swirling island of 100m tonnes of plastic bits and bottle tops” which “spins clockwise from Hawaii to Japan.”³² It is also referred to as “the Pacific trash vortex, it is estimated to be the size of Texas.”³³ Higgins has revealed that “100 million tonnes of floating rubbish polluting sea and coastlines, not to mention 100 species become extinct every day... the list is depressing.”³⁴



Photograph: Frans Lanting/ Corbis.³⁵

Figure 2: The above picture depicts “a Laysan albatross (*Diomedea immutabilis*) giving a bottle cap to its chick”³⁶ at the Pacific trash vortex.

□ The third is the Niger Delta:

According to the Guardian, “fifty years³⁷ of oil extraction in the Niger delta has scarred the Niger delta” since oil companies have carried out explorations and exploitations in the region without any appreciable regulation;³⁸ the Niger Delta which is “notoriously beset by conflict and poverty, has been steadily pushed towards ecological disaster” as “villagers struggle to live off land and water poisoned by years of oil spills, and crops fail under the acid rain caused by gas flares.”³⁹ It must be stated that while The Guardian ranks the Niger Delta third among the worst environmentally degraded places on earth, it is the conviction of some others that Niger Delta is the most polluted place on earth, indeed, “the world capital of oil pollution.”⁴⁰



Photograph: Ed Kashi/ Corbis.⁴¹

Figure 3: Above is a Pictorial Representation of a Scene of Oil Spillage in the Niger Delta.

□ The fourth is the Dongria Kondh:

The people of the Dongria Kondh, according to the Guardian, “gather on top of the Niyamgiri mountain, which they worship as their living god, to protest against plans by Vedanta Resources to mine bauxite from that mountain.”⁴² It is reported that “the mine will destroy the forests on which the Dongria Kondh depend and threaten the livelihoods of thousands of other Kondh tribal people living in the area.”⁴³ However, Vedanta has denied accusations that the proposed mine would breach the rights of a large number of people.⁴⁴



Photograph: Reinhard Krause/ Reuters.⁴⁵

Figure 4: Above is a picture of a gathering of the people of the Dongria Kondh on top of the Niyamgiri mountain to protest against plans by Vedanta Resources to mine bauxite from the mountain.⁴⁶

□ The fifth is Mountaintop Removal in West Virginia:

The Guardian has reported that “mountaintop mining involves a highly destructive practice of blasting through hundreds of feet of mountaintop to get at thin but valuable seams of coal.”⁴⁷



Photograph: Melissa Farlow/ NGC/ Getty Image.⁴⁸

Figure 5: The above picture shows “aerial of mountaintop removal coal mining site in West Virginia.”⁴⁹

□ Ranking sixth is the most polluted city on earth – Linfen in China:

The Guardian, has revealed that the most polluted city on earth is Lifen.⁵⁰ It is “located at the heart of a 12-mile industrial belt of iron foundries, smelting plants and cement factories, fed by the 50m tonnes of coal mined every year, unregulated because of rapid development.”⁵¹ On Linfen, Green Forward News has reported as follows:

No place on earth has worse air pollution than the coal mining city of Linfen, China. In Linfen (in the heart of Shanxi Province), coal has been king since they started mining in 1978. Prior to being an over-populated, over-polluted coal town, Linfen was once a charming farming community referred to as “the fruit and flower town”, which was known for its natural springs. Those days

are long gone, as there is little chance that you could even grow a flower in Linfen, and the natural springs now flow industrial run-off sludge.⁵²

It has been further revealed that the pollution challenge faced by China has been widely publicized in recent times, “so much so that it has become common place to see photos of people in Chinese cities casually wearing respiratory masks as if it is a normal part of life.”⁵³ And it is worthy to note that “this is not just some bad PR or exaggerated claims...16 of the world’s top 20 most polluted cities are in China.”⁵⁴ It is submitted, however, that the pollution in these cities is basically air pollution.



Photograph: Richard Jones/ Rex Features.⁵⁵

Figure 6: Above is a pictorial representation of an aspect of the densely polluted city of Linfen.

- The seventh is toxic dumping by Chevron Texaco in Ecuador:



Photograph: Remi Benali/ Corbis.⁵⁷

Figure 7: Below is a picture of an oily pond at the oil production site of Guanta, near the city of Lago Agrio.⁵⁶

On this environmental disaster, the Guardian has reported thus: Chevron, formerly Texaco, is alleged to have dumped billions of gallons of crude oil and toxic waste waters into the Amazonian jungle over two decades. This oily pond is at the oil production site of Guanta, near the city of Lago Agrio.⁵⁸

It has been reported that “Ecuador’s recent bill of rights for nature has changed the legal status of nature from being simply property to being a right-bearing entity” and “campaigners hope this will stop similar ecological disasters from happening again.”⁵⁹

□ The eighth is the Amazonian Rainforest:



“Photograph: Daniel Beltra/ Greenpeace.”⁶⁰

Figure 8: Above is a pictorial representation of an aspect of the razed portion of the Amazonian Rainforest.

It has been reported that “the razing of the Amazonian rainforest, a key stabiliser of the global climate system, by logging, mining, crop planting and beef production” constitutes one of the worst ecocides on earth.⁶¹ It is alarming to note that “almost 60% of the region’s forests could be wiped out or severely damaged by 2030.”⁶²

Ranked as the ninth worst ecocide is Space Junk:



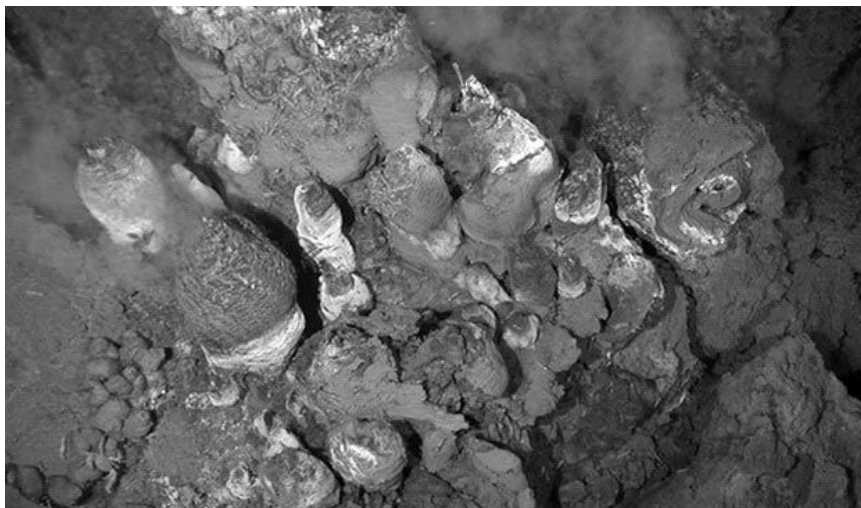
“Photograph: ESA/ AFP/ Getty Images.”⁶³

Figure 9: Above is a pictorial representation of millions of pieces of orbital debris constituting Space Junk.

According to the Guardian,

From spent rockets to defunct satellites, the millions of pieces of orbital debris have reached a critical level. A computer-generated image released by the European Space Agency shows an approximation of 12,000 fragments in orbit around the Earth.⁶⁴

□ Deep-Sea Mining constitutes the tenth worst ecocide:



“Photograph: M. Tivey.”⁶⁵

Figure 10: Above is a pictorial representation of WHOI Deep Submergence Lab.⁶⁶

The Guardian has also reported that the evolving subsurface “mineral extraction industry is sounding alarm bells among marine biologists, environmental scientists and campaigners” like Polly Higgins “who predict that mining for gold, silver and copper on the seabed will be the next great ecological disaster; it has also been pointed out that the “fragile marine ecosystem of the sea floor is a frontier that we know very little about.”⁶⁷

Conclusively, the situation of the world today is not what it was in 1996 when the efforts to include ecocide as an offence in the Draft Code of Offences against the Peace and Security of Mankind which is the precursor of the Rome Statute, were frustrated. The current level of environmental pollution in diverse places of our planet threatens the continuous survival of man on earth. Polly Higgins has portrayed the grim environmental situation of the earth, thereby calling for action; she gives very terrifying significant statistics of the current situation as follows: “80% of the world’s natural forests have been destroyed by human activity; our seas are choked with

one billion tons of plastic; 50% of the earth's vertebrate population has been wiped out in the last 40 years" and "in the face of this litany of woe, it's tempting to collapse in a pool of despair – or to stick our fingers in our ears, hoping it will all go away."⁶⁸ This extremely dangerous environmental situation which is mostly caused by human actions calls for the need to revisit recognizing ecocide as a crime against peace and its inclusion in the Rome Statute which could be a potent and effective measure to address the tragic situation.

The Niger Delta

Delta is "a triangular deposit of sand and soil at the mouth of a river or inlet."⁶⁹ It has also been defined as "a nearly flat plain of alluvial deposit between diverging branches of the mouth of a river, often, though not necessarily, triangular."⁷⁰ Various deltas are located in different territories in the world. The third largest delta on earth is "[t]he fan shaped Niger Delta."⁷¹ Geographically, the Niger Delta is about 25,640km² consisting of three states – Delta, Bayelsa and Rivers states – but the definition of the region of the Niger Delta in contemporary politics includes all states that generate oil in the South of Nigeria.⁷²

Worika has pointed out that among the largest wetlands on earth is the Niger Delta and it covers a region of about 70,000 square kilometers comprising of "a number of characteristic ecological zones ranging from the sandy coastal ridge barriers, brackish or saline mangroves, fresh water permanent and seasonal swamp forest, to lowland rain forest."⁷³ The region is also entirely "traversed and criss-crossed by a number of tributaries and distributaries to the main River Niger, forming along its course, streams, rivulets and canals."⁷⁴ The learned scholar has further revealed that:

The population of the Niger Delta is estimated to be between seven and twelve million people, most of whom are heterogeneous. They are the Izons (Ijaws), Isokos, Urhobos, Itsekiris, the Ilajes, Ogonis, Andonis, Ibibios, Orons, Efiks, Anangs, Ekpeyes, Ikwerres, and others.

These people depend for the most part on fishing and small-scale subsistence farming for their livelihood. The Niger Delta is also very richly endowed in oil and gas deposits. However, unsustainable industrial activities such as chemical, manufacturing, and the oil and gas industries, especially the last, have combined to exacerbate the stress on the already fragile natural environment. This situation is further compounded by the unwillingness of the federal government and its foreign joint venture partners to sincerely integrate environmental concerns into their development projects.⁷⁵

Though Nigeria is the most populous country in Africa and also one of the most naturally endowed, it is ironically among the most impoverished countries in the world and, for it, oil reserves have proved a mixed blessing as it is with many oil-rich developing countries.⁷⁶ The region of the Niger Delta where the major oil reserves are located is infested with myriads of life-threatening but avoidable environmental challenges, deplorable instances of environmental injustice, and deliberate inhuman deprivation and oppression perpetrated under the full glare of the Nigerian government and backed by high-level international conspiracy. In the view of Worika,

The various ethnic groups in the Niger have long been deprived of their natural resources by the federal government, which has literally seized the oil and gas deposits within their territory for itself. It has achieved this through the instrumentality of the Petroleum Act of 1969, the Land Use Act of 1978, and the Nigerian Constitution of 1999.⁷⁷

It is germane to state at this juncture that in the Niger Delta, multinational companies are the major players in the oil sector with their international headquarters located in powerful Western States, a number of which are World Powers; States that are very powerful in global politics and commerce such as Great Britain, United States, and France. It is said that:

The main multinational oil companies operating in the region are Shell (accounting for more than 40 percent of the volume of production), Mobil and Chevron, in that order. Other companies with significant presence in the Delta are the Italian company Agip, France's Elf-Aquitaine (commonly known as Elf), and Texaco. All of these companies operate on the basis of a joint venture with the Nigerian government.⁷⁸

A U.S. Non-Governmental Delegation Trip Report has further pointed out as follows:

Everywhere we visited we witnessed the destruction of the local environment, and the oppression of communities affected by what can accurately be described as an outlaw oil industry. Under the somber shadow of this industry of wealth, millions of Niger Delta residents try to survive. The tragedy of so much oil being extracted from the same lands where abject poverty has become institutionalized is unbearable. Over the last 40 years, billions of dollars in profits are earned each year, as millions of barrels of oil are extracted. Meanwhile, high unemployment, failing crops, declining wild fisheries, poisoned waters, dying forests and vanishing wildlife are draining the very life blood of the region. Even the rainwater is acidic and poisoned. What else can the oil companies take from the people? And, what should they be required to give back? ... It is a sad reality that Nigeria's oil helps fuel the industrialized world in its mad rush for "progress," while the producing nation is left so obviously far behind.⁷⁹

According to Egberongbe et al., in 1956, oil was discovered by Shell - BP at Oloibiri, a place in the Niger Delta, and the company started producing for business in 1958.⁸⁰ Currently, in the region there are 606 fields where oil is produced: 360 of them are located on-shore while 246 are offshore; Nigeria is also No. 1 in oil production in Africa and 11th globally; and in 2004, its production output averaged

2.5 million barrels daily with its confirmed oil reserves measured in barrels estimated at 35.2 billion.⁸¹ Nearly one-third of oil produced in Nigeria is exported to other nations, while the amount left in Nigeria to be refined and consumed is very small.⁸² In the last sixty years, tremendous quantity of oil worth billions of dollars has been exported from the Niger Delta, yielding great gains to few individuals but subjecting the producing communities to life-threatening dangers.⁸³ Roth has posited that with regard to “the consequences of oil extractions on the environment of the Niger Delta, several human rights are being violated...” such as rights to health and a clean environment.⁸⁴ Egberongbe et al. have asserted that “[s]ince the discovery of oil in Nigeria in the 1956, the country has been suffering the negative environmental consequences of oil development.”⁸⁵ Bearing the brunt of environmental degradation arising from the oil exploration and exploitation is the Niger Delta, the goose that lays the golden egg for the enjoyment of the entire country.

Environmental Degradation in the Niger Delta: Causes and Effects

A. Oil Spills in the Niger Delta and the Devastating Effects

Ambrose Alli⁸⁶ has pointed out that as a result of the oil losses, vast tracks of agricultural land have been wasted and rendered unproductive. He has observed:

[S]urface water courses are invariably contaminated and polluted rendering the water undrinkable and the aquatic life is destroyed, the result is great hardship to the inhabitants who become impoverished and deprived. These citizens are therefore compelled to emigrate to other towns and villages in search of decent life.⁸⁷

Also, a 1983 report issued by the NNPC is corroborative of the harmful effects of oil spills:

We witnessed the slow poisoning of the waters of this country and the destruction of vegetation and agricultural land by oil spills which occur during petroleum operations. But since the inception of the oil industry in Nigeria, more than twenty-five years ago, there has been no concern and effective effort on the part of the government, let alone the oil operators, to control environmental problems associated with the industry.⁸⁸

The U.S. Non-Governmental Delegation Trip Report has it that though oil companies have often claimed that their operations are performed according to the highest environmental standards,⁸⁹ it is incontrovertible that the said oil companies have had a severe impact on the environment, and on agricultural and fish production throughout the Niger Delta region. There are reports from many communities that they rarely receive any or sufficient compensation for land taken by oil companies, or rendered useless by oil spills, acid rain, and other forms of pollution.⁹⁰ However, according to the U.S. Non-Governmental Delegation Trip Report, protests made by the local communities against environmental degradation and loss of land rights have often met with violent repression by the various police and security bodies with the complicity of the oil companies.⁹¹ The Executive Summary of the U.S. Non-Governmental Delegation Trip Report asserts:

There is a long and terrible record of environmental destruction and human rights violations in the oil-producing regions of Nigeria. The gross level of environmental degradation caused by oil exploration and extraction in the Niger Delta has gone unchecked for the past 30 years. Evidence shows that the oil companies operating in Nigeria have not only disregarded their responsibility towards the environment but have acted in complicity with the military's repression of Nigerian citizens. The profit-driven collusion between multinational oil companies

and the past and present Nigerian governments has cost many lives and continues to threaten the stability of the region.⁹²

The report also dwells on the immediate and long term effects of oil pollution as well as social and economic impacts of corporate practices on the communities of oil producing areas.⁹³

One very grim effect of oil spillage is that life expectancy in the rural communities of the Niger Delta, half of which have no access to clean water, has fallen to little more than 40 years over the past two generations.⁹⁴ Moreover, oil spillage has significantly impacted the ecosystem into which it is released. Enormous tracts of the mangrove forests, which are especially vulnerable to oil (mainly because it is stored in the soil and re-released annually during inundations), have been wiped out. It has been estimated that 5 to 10% of Nigerian mangrove ecosystems have been eradicated either by settlement or oil. Also, the rainforest which hitherto occupied some 7,400 km² of land has been destroyed.⁹⁵ In populated places, spills frequently spread out over a wide area, bringing about the destruction of crops and aquacultures through contamination of the groundwater and soils. Dissolved oxygen is consumed by bacteria which feed on the spilled hydrocarbons and this also contributes to the death of fish. In agrarian communities, a year's supply of food can often be destroyed at once. The environment is growing increasingly uninhabitable as a result of the careless nature of oil operations in the Delta.⁹⁶ People in the communities affected complain of health problems such as breathing problems and skin lesions while many have lost basic human rights such as health, access to food, clean water, and an ability to work.⁹⁷

Oil spills, according to Nwilo and Badejo, occur as a result of several factors such as corrosion of pipelines and tankers (accounting for 50% of all spills), sabotage (28%), and oil production operations (21%), while inadequate or non-functional production equipment accounts for 1% of the spills. The cause of the highest percentage of oil spill (corrosion of pipes and tanks) is the rupturing or leaking of production infrastructures that are described as "very old and lack regular inspection and maintenance".⁹⁸

Magnitude of Oil Spillage

On the magnitude of oil spillage, the exact amount of oil spilled appears to be unknown. It has been pointed out that it is impossible to know how much oil is spilled in the Niger delta each year because the companies and the government keep that a secret.⁹⁹ Bonny Otavie¹⁰⁰ has said that “[we] are faced with incessant oil spills from rusty pipes, some of which are 40 years old.”¹⁰¹ According to a Guardian report,

The scale of the pollution is mind-boggling. The government’s National Oil Spill Detection and Response Agency (NOSDRA) says that between 1976 and 1996 alone, more than 2.4m barrels contaminated the environment. “Oil spills and the dumping of oil into waterways has been extensive, often poisoning drinking water and destroying vegetation. These incidents have become common due to the lack of laws and enforcement measures within the existing political regime.”¹⁰²

The Nigerian federal government figures have it that there were more than 7,000 oil spills between 1970 and 2000 with 2,000 official major sites of spillages, many dating back to decades while thousands of smaller ones are awaiting clearing up.¹⁰³ Furthermore, since 2006, Shell has been dealing with an average of 169 oil spills per year in the Niger Delta. This figure is a bit lower than the 175 average for the 2005-2009 period. In 2010, the company recorded 32 operational spills in the Niger Delta, down from 37 in 2009.¹⁰⁴ Moreover, Nnimmo Bassey¹⁰⁵ has pointed out that “[t]here are more than 300 spills, major and minor, a year.” He also said that oil spillage takes place “all the year round...” asserting that in “Nigeria, both companies and the government have come to treat an extraordinary level of oil spills as the norm.”¹⁰⁶

It has been further revealed that “the Niger delta... has seen more than 7,000 oil spills in the low lying swamps and farmland since 1989” and according to Amnesty International, “more than 13m barrels of oil have been spilt in the delta, twice as much as by

BP in last year's Gulf of Mexico spill", since the discovery of oil in the Niger Delta by Shell in 1956.¹⁰⁷ According to a Guardian report:

In fact, more oil is spilled from the delta's network of terminals, pipes, pumping stations and oil platforms every year than has been lost in the Gulf of Mexico, the site of a major ecological catastrophe caused by oil that has poured from a leak triggered by the explosion that wrecked BP's Deepwater Horizon rig....¹⁰⁸

People in the Niger Delta can hardly believe the contrast with the steps taken by BP, a British multinational oil and gas company, and the US government in stopping the Gulf oil leak and protecting the Louisiana shoreline from pollution.¹⁰⁹ A spokesman for the Stakeholder Democracy Network in Lagos working to empower communities affected by the operations of oil corporations has said: "The response to the spill in the United States should serve as a stiff reminder as to how far spill management in Nigeria has drifted from standards across the world."¹¹⁰

Shell argues that most of its oil spills are as a result of theft, vandalism or sabotage by militant groups, but this is widely disputed and independent assessment of what may have caused spillages is lacking.¹¹¹ Amnesty International and Friends of the Earth however have filed an official complaint against Shell over misleading statements the company has made about sabotage.¹¹² Moreover, a UN report has exposed the serious failure of the Nigerian government to regulate and control companies like Shell, noting that Nigeria's regulators are weak and that the national oil spill investigation agency often completely relies on the oil companies to do its work. Under Nigerian regulations, oil companies must clean up all oil spills notwithstanding the cause of the spill. However, these regulations are not enforced. Therefore, many areas of the Niger Delta are still polluted because companies fail to clean up spilled oil and rehabilitate the soil and water.¹¹³

Gas Flaring: A Major Cause of Environmental Degradation in Niger Delta

One major avenue through which environmental degradation takes place in the Niger Delta is gas flaring. In the Executive Summary of a report by Environmental Rights Action/ Climate Justice Program, it has been revealed that:

More gas is flared in Nigeria than anywhere else in the world. Estimates are notoriously unreliable, but roughly 2.5 billion cubic feet of gas associated with crude oil is wasted in this way everyday. This is equal to 40% of all Africa natural gas consumption in 2001 while the annual financial loss is about US \$2.5 billion. The flares have contributed more green house gases than all of sub-Saharan Africa combined. And the flares contain a cocktail of toxins that affect the health and livelihood of local communities exposing Niger Delta residents to an increased risk of premature death, child respiratory illnesses, asthma and cancer. This is a monstrous and unnecessary state of affairs.¹¹⁴

It has been further revealed that oil companies in Nigeria annually burn off some 24 billion cubic meters of natural gas vented during oil pumping. If the gas were harnessed, it could power a good portion of Africa for a year, including the homes of those nearest the wells who don't have electricity. Halting the flaring would eliminate millions of tons of carbon dioxide emitted during the process, and would reduce the many ailments — such as bronchial, chest, and eye problems — that those in nearby communities suffer.¹¹⁵

Gas flares evidence wasteful oil industry operations and they are a distinctive mark of the Niger Delta area. Nearly all the flares burn 24 hours a day and some have been doing so for over four decades. Communities that are close to “these flares are deprived of even the comfort of night's natural darkness.”¹¹⁶ An IUCN-funded report on the Niger delta produced by Environmental Rights Action has it that 75% of Nigerian gas is flared and this is far above any other country's allowable flaring limits.¹¹⁷ It has been observed that

while the flaring of gas “has been increasingly frowned upon in most parts of the world, in Nigeria it has flourished.”¹¹⁸

The U.S. Non-Governmental Delegation Trip Report has revealed that:

Natural gas is a by-product of oil extraction; it is removed from the earth’s crust along with the crude oil. Natural gas does not have to be flared off, and in many countries there is little flaring. Other options for managing natural gas include reinjection into the subsoil, storage for use as a source of energy by local communities, and transportation for use in other projects elsewhere. Yet companies in the Delta opt for flaring because, even with the minimal fine per barrel of gas burned that has to be paid to the government, it is by far cheaper than the alternatives. Though these “savings” may appear rational to companies, the reality is that local communities are being forced to pay the very high cost of losing a potential valuable resource, and living with the resulting pollution.¹¹⁹

The U.S. Non-Governmental Delegation made up of 9 U.S. activists, academics and journalists from around the United States who spent 10 days in Nigeria’s Niger Delta region gave the following testimony in this their report:

We witnessed many such flares in our visits to communities: their heat was so intense it was impossible to get near them. A constant loud roar accompanied the thick column of smoke emanating from them, fouling the air. The associated gases could be smelled from hundreds of meters away. Yet, the oil industry seems blatantly oblivious to the consequences of this wasteful practice.¹²⁰

Ironically, in an interview with Mr. Bobo Brown,¹²¹ he denied that surrounding communities were adversely affected by gas flare pollution, and even claimed that local residents benefited from gas

flaring since they could dry their foodstuffs free of charge by placing them close to the burning gases, an obviously ridiculous cost-benefit estimate.¹²² It is sad to note that extracts¹²³ from official and historical documents indicate that the British government was aware of the practice of gas flaring at the very beginning of the oil industry in the Delta. Its unacceptability was recognised. The substantial amounts of money to be derived by Shell and BP by producing and exporting Delta crude was understood. “Yet they did nothing to prevent the waste and they were completely oblivious to the impact on local communities.”¹²⁴ If the British colonial government had adopted the attitude that they later took in their own country, the people of the Niger Delta would not have been put on a track that has led to exposure to incessant flaring for over forty years.¹²⁵ It is interesting that the British government adopted quite a different attitude towards gas flaring in their own case when North Sea production began in the 1970s. The attitude adopted can be clearly shown in this official note:

Natural gas has commonly been treated as a waste product by the oil companies. Last year alone over 500 million cubic feet of gas a day was flared in Lybian ... oilfields alone – well over 15% of total UK consumption. We have set our face firmly against such waste of a precious resource in the UK Continental Shelf however....¹²⁶

Moreover, it has been pointed out that the issue of gas flaring amounts to:

... a story of appalling carelessness, greed, corruption, double standards and environmental racism. Perhaps, above all, it is a story of serial, cumulative and shameful failure on the part of British colonialism, the oil companies, and the Nigerian ruling elite.¹²⁷

It has been asserted that British double standards provided a fertile breeding ground for complicity between the corrupt Nigerian elite and the oil companies to waste this “precious resource” at world

record levels. The British approach “which recognises that national and corporate interests do not always coincide” “might fairly be summarised as ‘It goes on abroad but it’s not for us.’”¹²⁸

Gas flaring which contributes to climate change has serious implications for both Nigeria and the rest of the world. The burning of fossil fuel, mainly coal, oil and gas – greenhouse gases – has led to warming up the world and, according to the Intergovernmental Panel on Climate Change, it is projected to get much, much worse during the course of 21st century.¹²⁹

The report by Environmental Rights Action/ Climate Justice Program has further asserted that gas flaring in Niger Delta “is a human rights, environmental and economic monstrosity.” It contributes greatly to climate change,¹³⁰ thereby “affecting communities all over the world” and with Nigerian per capital GNP lower than at independence,” it constitutes an “appalling waste of resources that the country cannot afford....”¹³¹ A clarion call is therefore made for an immediate end to gas flaring, stating that “the time has come for all communities, citizens and the court to insist on ending the dangerous practice. Not only is it unacceptable, unaffordable and avoidable, it is also, in our view, illegal.”¹³²

Gas flaring has generally been made illegal in Nigeria since 1984 by virtue of Section 3 of the Associated Gas Reinjection Act, 1979, which permits oil companies to flare gas if they have field(s) specific, lawfully issued ministerial certificates. Yet the flaring of gas has continued in increasing proportion. It has been stated that while Nigerian laws have outlawed flaring since 1979, oil companies have been given exemptions year after year. A recent ban on the practice, announced in 2008 was postponed. Communities in the Niger Delta have long demanded a halt to gas flaring at the region’s oil wells. Though the Nigerian government recently ordered that all flaring should cease by 2011,¹³³ it is observed that flaring still continues with great intensity. The Nigerian government, therefore, should summon the political will to implement ban on gas flaring bearing in mind its extremely dangerous effects on the people and the environment.

Other Causes of Environmental Degradation in the Niger Delta

Though oil spills and flaring of gas constitute the gravest widespread and principal causes of pollution of the environment in Niger Delta, “this concern does not reduce the importance of other environmental issues such as bush burning, erosion of various configuration, indiscriminate waste disposal etc.”¹³⁴

Moreover, on environmental degradation in Delta State, Ofehe has pointed out as follows:

Various forms of ecological degradation exist throughout the State. Apart from crude oil, the State is blessed with a number of industries whose activities also generate waste. If these are not properly managed, they could also result in environmental pollution. Many towns and villages in the coastal areas suffer severely from coastal erosion and river siltation. The mining of sand and dredging of rivers are also aggravating coastal degradation in the State. The State is well-known in the Federation for the very fast rate of coastal recession besetting it. Equally, serious gully and sheet erosions are very common in the northern senatorial district of the State which deserves attention.¹³⁵

It must be acknowledged, conclusively, that Ofehe’s assertion about environmental degradation in Delta State is also true about the Niger Delta region generally.

The Law as a Weapon to Combat Environmental Degradation in the Niger Delta

It is pathetic to note that Nigeria is infested with myriads of dangerous, deadly but avoidable environmental problems, sordid instances of environmental injustice as well as calculated deprivation and oppression backed by high-level international conspiracy, especially in the Niger Delta region of the country where the major oil reserves are located.¹³⁶ With the Niger Delta region bedeviled with highly devastating environmental degradation,

different individuals, groups, and communities have attempted to employ various approaches to make legal claims in their bid to seek justice with regard to environmental protection as a result of the adverse effects suffered due to the operations of oil companies.¹³⁷

The main thrust of this lecture is how law has been wielded as a weapon to combat environmental degradation in Niger Delta. We shall, therefore, look at the failure of the traditional common law torts, the human rights approach, and adopting ecocide as a weapon to combat environmental degradation.

Traditional Common Law Torts: An Ineffective Weapon

In the battle against environmental degradation, traditional common law torts have been employed as a weapon but they have proved grossly ineffective. Different individuals, groups, and communities have attempted to make legal claims as a result of the adverse effects suffered due to environmental degradation caused mostly by operations of oil companies. These claims have been brought variously under the traditional common law approach in Nigerian courts.

Indeed, there are a plethora of cases that have arisen from operations of oil companies and most of them have been brought through the application of the traditional common law torts of nuisance, negligence, trespass¹³⁸ or strict liability. It has been observed that hundreds of inconsiderable court cases are brought yearly in Nigeria over pollution arising from oil spills.¹³⁹ Yet only few cases against the oil companies such as *Umudje v. Shell B. P.*,¹⁴⁰ *Ikpede v. Shell BP Petroleum Dev. Company Ltd*,¹⁴¹ and *Onajoke v. Seismograph Service Ltd*¹⁴² have succeeded with their claims with quite insignificant compensations often awarded as in *SPDC Nig. Ltd v. Ambah*¹⁴³. Moreover, several other cases for claims against oil companies did not succeed with many of them thrown out on grounds of legal technicalities. Examples of such claims that failed are *Chinda v. Shell-BP*¹⁴⁴ *Atubin and Ors v. Shell BP*,¹⁴⁵ *Ogiale v. Shell*¹⁴⁶ *Amos and Ors v. Shell BP Petroleum Dev. Company Nig. Ltd*,¹⁴⁷ *Seismograph Services Ltd v. Onokpasa*,¹⁴⁸ *Chidinma v. Ors v. Shell BP*,¹⁴⁹ *Oronto Douglas v. SPDC*,¹⁵⁰ *Seismograph Services Ltd v. Ogbeni*,¹⁵¹ *Alar Irou v. Shell-BP Development (Nig.) Ltd*.¹⁵²

Nnimmo Bassey has alleged that Shell BP has been hindering progressive legislation both within the country and in the US, pointing out that “they have been living above the law...”¹⁵³ This has informed his suggestion that the company must be brought before the International Court of Justice.¹⁵⁴ Moreover, Esavwede has expressed the opinion that the impact of applying the traditional common law torts of nuisance, negligence, trespass, and strict liability in the protection of the environment has not been so effective as their application in environmental protection is fraught with inherent and different problems.¹⁵⁵

Employing Human Rights as a Weapon to Combat Environmental Degradation in the Niger Delta

Ziemer has observed that with “increasingly severe and widespread environmental degradation” on earth, “new tools are needed to respond to environmental harm” as “[t]raditional international environmental law has little to offer individuals harmed by such damage.”¹⁵⁶ Moreover the learned scholar has rightly observed that individuals “whose health or livelihood” is endangered by environmental pollution, “have little recourse under international environmental laws” and those who are most negatively impacted by environmental pollution “are often ethnic minority groups or indigenous peoples who are effectively excluded from political participation or redress under their nation’s laws.”¹⁵⁷ He then posits that “linking human rights with the environment creates a rights-based approach to environmental protection that places the people harmed by environmental degradation at its center.”¹⁵⁸

Moreover, Bell and McGillivray have indicated the development of the language of “rights” and environmental law as “a potential counterpoint to the discretionary, flexible basis of much of environmental law and decision making” in recent times.¹⁵⁹ Cullet has also intoned that “[t]he right to environment requires States” to abstain from “activities harmful to the environment, and to adopt and enforce policies” in order to promote the preservation and enhancement of ecological worth.¹⁶⁰

It is pertinent to state that adopting the human rights approach to tackling the challenges of environmental degradation in the Niger

Delta has proved to be potent and effective in a number of cases. For instance, in *Social and Economic Rights Action Center (SERAC) and the Center for Economic and Social Rights (CESR) v. Nigeria*,¹⁶¹ the African Commission of Human and Peoples' Rights relied on, inter alia, Article 24 of the African Charter on Human and Peoples' Rights in holding that Nigeria violated the right to a clean environment by granting permission to Shell to violate the rights to health and environment of inhabitants of settlements in Ogoni land in the course of oil production.¹⁶² Thus, the African Commission decided against Nigeria.¹⁶³

It is interesting to observe that the rights approach to combating degradation of the environment was successfully adopted for the first time in Nigeria in *Gbemre v. Shell*.¹⁶⁴ In this instant case, the Applicant requested the Federal High Court for a number of reliefs inter alia (1) "a declaration that the constitutionally guaranteed rights to life and dignity of the human person provided in Sections 33(1) and 34(1) of the Constitution includes the right to a clean, poison-free, pollution-free and healthy environment"; (2) "a declaration that the actions of the respondents in continuing to flare gas in the course of their oil exploration and production activities in the applicant's community is a violation of the fundamental rights to life (including healthy environment) and the dignity of the human person guaranteed by Sections 33(1) and 34(1) respectively of the Constitution"; and (3) a declaration that the provisions of Section 3(2)(a) and (b) of the Associated Gas Re-Injection Act and Section 1 of the Associated Gas Re-Injection (Continued Flaring of Gas) Regulations, under which the continued flaring of gas in Nigeria may be allowed, are inconsistent with the applicant's right to life and/or dignity of the human person enshrined in Sections 33(1) and 34(1) of the Constitution and therefore are unconstitutional, null and void."¹⁶⁵ The court decided accordingly against Shell¹⁶⁶ and further ordered "the respondents to take immediate steps to stop further gas flaring in the applicant's community."¹⁶⁷

On the significance of this judgment, Ebeku has observed that:

...this is the first case in which a Nigerian court has expansively interpreted the right to life guaranteed in the 1999 Constitution of Nigeria to include the right to a healthy/clean environment and also upheld or enforced the legal right to a satisfactory environment protected in the African Charter on Human and Peoples' Rights as incorporated into Nigerian domestic law (the judge partly relied on this legal right in reaching his decision in the case). Importantly, this judgment is consistent with the jurisprudence of other jurisdictions as seen above and can therefore be counted as a new example of the increasing tendency across the world to enforce the constitutional right to a healthy/clean environment and/or interpret the constitutional right to life expansively to include the right to a healthy/clean environment.¹⁶⁸

However, the case went on appeal and it has been reported that "on 31 May 2006, the judge in the case was removed from the court in Benin and the file of the case could not be located."¹⁶⁹ It is unfortunate that no further development is known about the case.

Mr. Vice Chancellor Sir, the magnitude of environmental degradation in the region of the Niger Delta, the tragic state of helplessness of the inhabitants of this putrefying sore, as well as the apparent attitude of indifference displayed by supposed stakeholders both locally and internationally call for an exploration of various human rights measures that have been employed internationally and in several jurisdictions at the municipal level in various nations of the world with a view to finding out highly potent and effective measures to combat the environmental enormities of the Niger Delta. In pursuit of this grand goal and as part of my modest contributions to the advancement of the law with regard to human rights as a weapon for environmental protection, I have carried out some scholarly interventions.

In my paper titled “Human Rights Perspective to Environmental Challenges: Emerging Trends,” I looked into the concept of and the three generations of human rights, traced the international recognition of human rights from the early nineteenth century to the contemporary period, specifically examined the recent development with regard to the explicit linkage between climate change and human rights since December 2005 when an alliance of the Inuit from Canada and the United States presented a petition before the Inter-American Commission on Human Rights which culminated in the adoption of Resolution 10/4 on human rights and climate change by the U.N. Human Rights Council on March 25, 2009. I concluded that it will be effective to tackle climate change and environmental degradation through recognition of environmental rights as human rights and recommended the negotiation of an elaborate treaty on environmental rights by the United Nations (UN) as well as establishment of an international environmental court and setting up an environmental trust fund.¹⁷⁰ Moreover, my paper titled “Oil Spillage in the Niger Delta Region:

A Complex Instance of Gross Environmental Injustice” examines the environmental tragedy that has bedeviled the Niger Delta as a result of oil pollution. It also explores the different legal mechanisms, namely the traditional common law approach employed in Nigerian courts, the Alien Tort Statute in the United States, and the recent open-door for redress in the British High Court, which have been employed to secure environmental protection in the Niger Delta. It observes that the traditional Common Law torts of nuisance, negligence, trespass, and strict liability in the protection of the environment are largely ineffective as their application is fraught with inherent and diverse problems, while the decision in *Kiobel v. Royal Dutch Petroleum* appears to have rendered ineffective the Alien Tort Statute in the United States. However, with the recent *Ogoni* award¹⁷¹ granted by a High Court in London, there appears to be an open-door for redress in the British High Court. Finally, bearing in mind the magnitude of oil spillage and the deadly effects entailed, it is submitted that environmental degradation in the Niger Delta amounts to genocide in disguise and therefore calls for unilateral intervention by the United Nations (UN). In this regard,

the article recommends that the United Nations Environment Program (UNEP) should be mandated to carry out an independent assessment of the Niger Delta and proffer measures that would be binding on culpable parties.¹⁷²

Furthermore, my paper captioned “Recognizing the Right to Potable Water as a Weapon for Realizing Environmental Protection in the Nigerian Niger Delta”¹⁷³ portrays the appalling situation of water pollution in the Nigerian Niger Delta where oil spillage of mind-boggling magnitude poisons the waterways and other sources of drinking water of so many inhabitants of the region. It argues that the gory situation persists due to absence of effective laws and enforcement measures as well as lapses in the application of the traditional common law torts of nuisance, negligence, trespass or strict liability in environmental protection. It canvasses for recognition of the right to potable water as an effective weapon to address the problem. It looks into the status of the right at the international, regional, and local levels, and submits that potable water which is indispensable for man’s survival, and invariably a prerequisite for enjoyment of other human rights, should be recognized as an undeniable right of all people in Nigeria, as it is in some other climes, with a view to addressing the problem in the Niger Delta. It recommends that concerted efforts should be made to create a binding instrument providing for the right to water for all people under the umbrella of the UN as this will encourage more States to recognize the right. In my paper captioned “Biodiversity and Human Rights: Emerging Trends,”¹⁷⁴ I have respectfully submitted that for environmental protection to be entire and all-embracing, the right to environment should not only be anthropocentric but should incorporate biodiversity protection as excellently illustrated in the Constitution of Brazil.

Mr. Vice Chancellor Sir, besides exploring the Niger Delta particularly, I have given a global look at environmental challenges in my paper captioned “The Application of Progressive Realization Principle in Ensuring Global Environmental Protection in the 21st Century”¹⁷⁵ in which I examined global environmental concerns in the century and the response of the international community

focusing on securing environmental protection with a view to ascertaining the applicability of the progressive realization principle.

In my article titled “Gas Flaring in the Nigerian Niger Delta: A Glaring Case of Human Rights and Environmental Atrocity,” I examined the extent to which the Nigerian 1999 Constitution provides for the right to a healthy environment as well as the prospects of the independent scientific environmental assessment of Ogoniland carried out by United Nations Environment Programme (UNEP) and its outcome¹⁷⁶. The extent of the application of the human rights approach in environmental protection has been investigated in a paper co-authored by the highly revered Professor Gasiokwu (of blessed memory) and my humble self, titled “Human Rights-Based Approach to Environmental Protection in Various Regions and Constitutions of States: The Journey So Far.”¹⁷⁷ The paper subjected to criticism the potential benefits as well as risks and drawbacks of deploying human rights to climate change and environmental degradation. It focuses on the various regional arrangements put in place for the promotion and protection of environmental rights as well as the extent to which environmental rights have been recognised in various constitutions of States. It submitted that recognition of environmental rights as human rights internationally and their being constitutionlised municipally in majority of States would contribute in no small measure towards alleviating the effects of climate change and environmental degradation as that would constitute a potent weapon in the hands of individuals, groups, NGOs, and even States in seeking redress with respect to environmental rights.

Ecocide as a Weapon to Combat Environmental Degradation in the Niger Delta

Mr. Vice Chancellor Sir, it is incontrovertible that the Niger Delta today is plagued with so much environmental pollution that constitutes a serious threat to human survival not only to the inhabitants of the locality but the impacts extend to the entire global community. Such level of environmental pollution which, in virtually all cases, is anthropogenic can indeed be regarded as genocide in disguise; it can indeed be described as environmental genocide which

a number of scholars have termed ecocide. Among the scholars who have used the term ecocide are M. Feshback and A. Friendly,¹⁷⁸ M. A. Gray,¹⁷⁹ and A. Gauger et al.¹⁸⁰ It is unfortunate that while the international community has devised measures that are grievous and effective in tackling real and manifest instances of genocide internationally and in different nations of the world, similar measures are seemingly lacking in the case of environmental genocide or ecocide. In this regard, Gray has posited that:

Despite its reluctance to create new international crimes, a reluctance justified by the absence of enforcement machinery, the international community will soon realize that ecocide so menaces fundamental human rights and international peace and security that it must be treated with the same gravity as apartheid or genocide.¹⁸¹

It has been observed that the Niger Delta is one of the ten most significant wetlands and marine ecosystems in our planet; and the oil industry in this region has undoubtedly made great contribution towards the growth and development of the whole nation but unsustainable oil exploration activities have made the Niger Delta region to be among “the five most severely petroleum damaged ecosystems in the world.”¹⁸² According to Ite et al,

Petroleum exploration and production in the Nigeria’s Niger Delta region and export of oil and gas resources by the petroleum sector has substantially improved the nation’s economy over the past five decades. However, activities associated with petroleum exploration, development and production operations have local detrimental and significant impacts on the atmosphere, soils and sediments, surface and groundwater, marine environment, biological diversity and sustainability of terrestrial ecosystems in the Niger Delta. Discharges of petroleum hydrocarbon and petroleum-derived waste streams have caused environmental pollution, adverse human health effects, detrimental impact on regional

economy, socio-economic problems and degradation of host communities in the 9 oil-producing states in the Niger Delta region.¹⁸³

In fact, as earlier noted, the Niger Delta has been described as “the world capital of oil pollution.”¹⁸⁴ Qazibash has expressed the view that the “so-called development projects” which should have engendered prosperity, have indeed brought about human rights breaches and environmental degradation.¹⁸⁵

The situation of extreme environmental degradation plaguing the Niger Delta requires an urgent high-pitched call for the application of potent measures in preserving the environment.

However, the question may be asked if indeed the human rights approach offers any sure hope? Undoubtedly, several measures have been employed both in the past and present in addressing environmental degradation at different levels – internationally, regionally, and municipally. In our contemporary period, there has been emphasis on the use of human rights in environmental protection. A report by Asia Pacific Forum asserts that a number of existing human rights may be used to tackle environmental problems. These include a range of civil, political, economic, social and cultural rights which rely on environmental quality for their full attainment. This relation may aid the employment of human rights to deal with environmental problems. These rights consist of “the rights to: life; health, adequate standard of living (including food, clothing and housing); family life and privacy; property; culture; freedom from discrimination; self-determination; and just and favourable conditions of work.”¹⁸⁶

Moreover, while certain existing civil and political as well as economic, social and cultural rights have been expanded to accommodate environmental concerns and applied in environmental protection at international¹⁸⁷ and regional¹⁸⁸ levels as well as various local jurisdictions,¹⁸⁹ the agitation for a specific right to a safe and clean environment appears to have gained wide acceptance and ascendancy leading to its recognition in various international¹⁹⁰ and regional¹⁹¹ instruments as well as being clearly

entrenched as a human right in the constitutions of several States in the world.¹⁹²

In addition, Boyd has revealed that by 2012, among the 193 member States in the United Nations, 177 had recognized the right to a healthy environment through their constitutions, environmental legislations, court decisions, or by ratifying an international agreement.¹⁹³ It has been revealed that specifically, 95 States have given constitutional status to the right to a healthy environment.¹⁹⁴ On the effects of these provisions, Boyd has pointed out that:

These provisions are having a remarkable impact, ranging from stronger environmental laws and landmark court decisions to the cleanup of pollution hot spots and the provision of safe drinking water.¹⁹⁵

In spite of the apparent progress being made, “the scope and potential utility of the right to a healthy environment” is still a subject of argument¹⁹⁶ with supporters and critics taking divergent positions. One then wonders if the human rights approach, or in particular, the constitutionalizing of the right to a healthy environment is the expected messiah for tackling environmental problems or we should look for another. Besides, if indeed the environmental rights approach is a better and more effective approach, what happens to dozens of nations that are yet to entrench environmental rights¹⁹⁷ into their constitutions? Moreover, it has been admitted that there are certain States “where constitutional environmental rights and responsibilities have had minimal impact.”¹⁹⁸ What factors could be responsible and how can such factors be addressed? It has been observed that many States have currently constitutionalized the right to a healthy environment yet several questions about the relationship of human rights and the environment are still unanswered.¹⁹⁹

Furthermore, Sharp has revealed that

Despite the veritable flourishing of environmental rights finding their way into human rights documents on the international, regional, and national levels, there have been very few actual cases brought to enforce those

rights. Less heartening still, the cases which have been brought, for the most part, have been unsuccessful.²⁰⁰

The learned scholar has further stated that the aforesaid documents together “present an increasingly coherent doctrinal basis for affirmatively establishing environmental attack on human rights as an international crime” and that “the growing consensus recognizing these rights” notwithstanding, “there is a conspicuous lack of state practice prosecuting their violation.”²⁰¹ In accounting for the scarcity of cases both in developing and developed states, Churchill pointed out that “other preoccupations and priorities” abound while applying “human rights treaties than protecting the environment”; on the other hand, in developed states “procedures for protecting the environment” which are not related to human rights exist in general.²⁰² Therefore, human rights approach alone is not enough. A multi-pronged approach is necessary. Ecocide law could be an additional weapon in the arsenal of warriors battling for environmental protection.

Ecocide: What It Is

It has been revealed that in 1992, Murray Feshbach, then a research professor of demography at Georgetown University, collaborated with Alfred Friendly, Jr., the Moscow correspondent for Newsweek at that time, to examine “the impact of decades of environmental abuse” and their panoramic study coined the term “ecocide”.²⁰³

The term ecocide however has been defined in many and varied ways by different scholars. Etymologically, the word ecocide is derived from the Greek “oikos” meaning “house” or “home” and the Latin “caedere” meaning “strike down, demolish, kill”; it translates literally to killing our home, the only one we have: Earth.²⁰⁴ Ecocide is thus the destruction of the global environment.²⁰⁵ End Ecocide on Earth therefore defines Ecocide crime as “an extensive damage or destruction which would have for consequence a significant and durable alteration of the global commons or ecosystem services upon which rely a group or sub-group of a human population” in compliance with the known planetary boundaries.²⁰⁶

Moreover, according to Kamala,

Ecocide ... refers to altering an ecosystem in such a manner that it can no longer support all manner of living organisms that previously depended on it.²⁰⁷

In the first of a series of research papers for the University of London Human Rights Consortium's Ecocide Project, the term ecocide has been defined by Gauger et al as follows:

Ecocide is the direct physical destruction of a territory which can in some instances lead to the death of humans and other beings. Ecocide can and often does lead to cultural damage and destruction; and the direct destruction of a territory can lead to cultural genocide. For example, destroying an indigenous peoples' territory can critically undermine its culture, identity and way of life.²⁰⁸

Fried, has considered ecocide to mean:

...various measures of devastation and destruction which ... aim at damaging or destroying the ecology of geographic areas to the detriment of human life, animal life, and plant life.²⁰⁹

In the UN Whitaker Report on Genocide, 1985, ecocide has also been defined thus:

adverse alterations, often irreparable, to the environment - for example through nuclear explosions, chemical weapons, serious pollution and acid rain, or destruction of the rain forest - which threaten the existence of entire populations, whether deliberately or with criminal negligence.²¹⁰

In addition, Merriam Webster Dictionary has defined ecocide as "the destruction of large areas of the natural environment especially as a result of deliberate human action."²¹¹

Higgins has also proffered a definition of ecocide as follows:

Ecocide is the extensive damage to, destruction of or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants of that territory has been or will be severely diminished.²¹²

Furthermore, it is pertinent to point out that there is another term geocide that is somewhat similar to ecocide; Merz et al have described it as “the environmental counterpart of genocide.”²¹³ Berat has defined geocide as:

...intentional destruction, in whole or in part, of any portion of the global ecosystem, via killing members of a species; causing serious bodily or mental harm to members of the species; inflicting on the species conditions of life that bring about its physical destruction in whole or in part; and imposing measures that prevent births within the group or lead to birth defects.²¹⁴

Gray has not only defined ecocide, he also drew a comparison between ecocide and geocide. In defining ecocide, he intones that:

...states, and arguably individuals and organizations, causing or permitting harm to the natural environment on a massive scale breach a duty of care owed to humanity in general and therefore commit an international delict, “ecocide.”... Ecocide is identified on the basis of the deliberate or negligent violation of key state and human rights and according to the following criteria: (1) serious, and extensive or lasting, ecological damage, (2) international consequences, and (3) waste. Thus defined, the seemingly radical concept of ecocide is in fact derivable from principles of international law.²¹⁵

In comparing ecocide and geocide, the learned scholar points out that Berat “bases geocide on a violation of a right to a healthy environment through intentional species destruction” while “ecocide exists as a delict, it need not be intentional or cause species extinction, and is based on breach of a number of obligations and rights. It is supported by, but unlike geocide not dependent upon, a right to a healthy environment.”²¹⁶

Merz et al have expressed the view that criminalizing ecocide “sits at the heart of an emerging body of law called Earth Law.”²¹⁷

The Crime of Ecocide in International Law

It is important to state that the earth is in serious danger as a result of certain human activities that have grievous environmental hazards both in the present and in the future. According to Higgins et al:

A wide range of actions imperil the planet and threaten the future of humanity and other species. These crimes and harms need to be responded to through both informal and formal means of resolution and restoration, underpinned by an internationally applicable legal framework.²¹⁸

It is sad to note that the means to respond to these anthropogenic earth-threatening environmental hazards appears to be lacking in the available legal system at the international level. In the view of Merz et al, the existing “legal framework does not possess the necessary tools to stop the widespread degradation of ecosystems caused by dangerous industrial activity.”²¹⁹ According to the learned scholars, “new tools are needed to safeguard not only our and in particular future generations’ rights, but also the rights of nature itself.”²²⁰ They therefore suggest that “the inclusion of a crime of ecocide as an International Crime against Peace” is one possible legal tool.²²¹

Indeed, certain aspects of employing the law of ecocide as a weapon for environmental protection have been investigated in my scholarly interventions. In my paper titled “Revivification of Legal

Efforts to Criminalize Ecocide in International Law: Emerging Trend,”²²² I examined the status of ecocide as a crime in international law with a view to proposing that the causing of widespread, long-term and severe damage to the natural environment should be recognized as a crime called ecocide. In this regard, it is observed that ten States have recognized and codified ecocide in their Penal/Criminal Codes and none of these States with ecocide law includes a test of intent; this makes ecocide more legally effective as a crime of strict liability. It is also observed that ecocide was originally part of the draft Code of Crimes Against the Peace and Security of Mankind that birthed the Rome Statute but was eventually withdrawn because of the opposition of certain militarily and economically advanced States which wield great influence in global power politics and are also behind the deadly environmental degradations in some weak and voiceless nations. It however exists in international law only as war time crime as codified in Article 8.2.b.iv of the Rome Statute. I recommended, therefore, that ecocide should be included in the Rome Statute as the fifth Crime Against Peace by amendment thereby bringing it under the jurisdiction of the International Criminal Court. The study recommended the enactment and codification of ecocide (devoid of a test of intent) as law in Nigeria (as well as other States which are yet to criminalize ecocide in this manner) since it can be a potent and effective measure to address the life-threatening situation of heinous environmental degradation especially in the Niger Delta.

Furthermore, the article titled “Environmental Pollution in the Niger Delta of Nigeria: Human Rights Vis a Vis Ecocide Law – Which Way Out?”²²³, examined certain hindrances to addressing environmental degradation in the Niger Delta. It critically appraised the human rights approach to find out if it gives a sure hope in tackling the problem focusing critically on the case of *Gbemre v. Shell*²²⁴ where the human rights approach to combating environmental degradation was successfully adopted for the first time in Nigeria. The paper, therefore, proposed that in tackling environmental pollution in the Niger Delta of Nigeria, a double-barreled approach involving the application of human rights approach and ecocide law be employed as the way out.

United Nations Interventions as a Weapon to Combat Environmental Degradation in the Niger Delta

Mr. Vice Chancellor Sir, the United Nations with its Security Council is undoubtedly the most powerful terrestrial force on earth. One ideal objective of the UN is encapsulated in the words of late Kofi Annan, the former Secretary-General as follows:

I have sought to speak out in defense of those who cannot speak for themselves – for the right of the poorest to development and the right of the weakest and most vulnerable to protection.²²⁵

By this pronouncement, the former helmsman of the United Nations aptly stated what the largest international Organisation ought to be doing fairly and firmly in all climes, including the Niger Delta but appears to be failing. In spite of the natural endowment of the Niger Delta, it is ironically inhabited by the poorest of the poor. The UN, therefore, ought to rise to their defence with regard to environmental protection. The role of the UN in environmental protection has been interrogated in my academic interventions as indicated in some of my publications.

The paper captioned “An Appraisal of United Nations Efforts in International Environmental Protection,”²²⁶ looks into the efforts the United Nations has made with regard to international environmental protection, tracing the evolution of international environmental protection in the United Nations. It observes that, while on the one hand laudable achievements have been recorded in efforts towards international environmental protection, on the other hand, serious shortcomings in such efforts are also glaring. The paper observes that in spite of the hundreds of internationally recognized treaties in existence, environmental deterioration continues to rise. The paper therefore recommends that in order to make the United Nations effective and efficient in its environmental protection efforts, instead of the current situation of institutional proliferation, there should be just one main multi-departmental UN environmental agency in charge of environmental protection with a well-funded secretariat vested with enforcement authority by

granting it institutional capacity as well as international jurisdiction. It further advocates that the notorious sluggishness in UN efforts should be reconciled with the increasing urgency required in global environmental protection.

Moreover, in the article titled “Ozone Layer Depletion and the Response of the Global Community,”²²⁷ I have examined the global environmental challenge of the ozone layer depletion which is capable of threatening the continued existence of the global community if no commensurate measures are put in place in order to address the global threat. The paper looks into the response of the international community through the creation of two treaties – the 1988 Vienna Convention for Protection of the Ozone Layer and the 1992 Montreal Protocol on Substances that Deplete the Ozone Layer. It observes that while the international community has responded to the challenge posed by the depletion of the ozone layer by creating these two treaties, the expected progress is not being made as the plan in place for ozone depleting gases to be phased out by 2005 in industrialized States and by 2015 in developing nations appears to be a far cry from being realized. It suggests that more concerted efforts in this regard should be made by creating a more binding treaty and also establishing an effective monitoring body to ensure compliance by State parties with obligations entrenched in treaties already in existence.

In the paper co-authored with Gasiokwu titled “International Environmental Protection: UN Efforts Before and After Kyoto Protocol,”²²⁸ we carried out an exploration of international environmental protection with particular focus on some of the major milestones of the United Nations in global environmental protection – through the Kyoto Protocol, before it, and after it. The paper queries the effectiveness of the UN efforts pointing out that hundreds of international environmental agreements have been concluded since the first UN conference on the environment – the Stockholm Conference – was held in 1972;²²⁹ yet, it is observed, the more the efforts, the more the environment deteriorates, raising serious doubts as to the effectiveness of these efforts.

Mr. Vice Chancellor Sir, it has been established that among the contemporary environmental challenges that threaten mankind in

a global dimension, climate change occupies the front burner. I have also given some attention to this issue in some of my works, bearing in mind that Niger Delta contributes in no small measure to climate change and global warming through the heavy emissions from the industrial activities in the oil and gas operations coupled with the gas flaring and oil spillage.

In “Greenhouse Gases: What They Are,”²³⁰ I noted that greenhouse gases have come to the fore in contemporary environmental matters as their emissions are said to constitute a serious threat to human existence on earth being the main cause of global warming and climate change. I carried out an exploration of the various greenhouse gases dwelling on the meaning of greenhouse gases; the different types of greenhouse gases that are in existence, their sources and uses; measurement of greenhouse gases and the global emissions ranking data that are available as well as efforts being made towards reducing these gases. It is observed that Nigeria is ranked 40th among emitters of greenhouse gases globally.

Furthermore, in the paper co-authored with Uhuruogu titled “Copenhagen Conference: Expectations, Outcomes and Imperatives,”²³¹ we x-rayed the Copenhagen Summit which brought together 193 countries – parties to the UN Framework Convention on Climate Change (1992) and the Kyoto Protocol (1997) and humbly submitted that the Summit was a dismal failure as it fell terribly short of the great expectations of observers, climate change activists, experts, participants and indeed world leaders in not producing a binding agreement required to tackle the threatening global warming challenge.

In “Climate Change and Global Warming: The International Community Response,”²³² I attempted an exploration of the meaning of climate change and global warming focusing on the gravity of the existing and predicted effects and threat to the survival of the global community and the extent to which the international community has responded in the form of reaching international agreements to address the said effects and threat. I respectfully submitted that the response of the international community is grossly inadequate as commitments to cutting emissions of greenhouse

gases made by key polluting nations are unrealistic in tackling the global warming monster.

Recommendations

Mr. Vice Chancellor Sir, it is conventional and appropriate in a lecture like this to make some recommendations. Flowing from my discussion, the following recommendations are respectfully put forward:

1. Since the atrocious instances of environmental pollution in the Niger Delta constitute a violation of several human rights such as the rights to life, health, potable water, clean air, food, property, self-determination inter alia, the human rights approach which promises to be more potent and effective is recommended.
2. Noting that a right that is unenforceable is indeed not a right, it is therefore recommended that the right to a protected and improved environment should be moved from Chapter II to Chapter IV of the 1999 Nigerian Constitution in order to make it enforceable. The Constitution of the Federal Republic of Nigeria should therefore be amended accordingly.
3. The Nigerian government should summon the political will to deal with the challenge of oil spills and also implement ban on gas flaring which is long overdue, bearing in mind its extremely dangerous effects on the people and the environment.
4. Men in the regulatory bodies in the oil and gas sector should be specially selected. In this regard, men of proven integrity and transparent honesty should be appointed as officers and inspectors in the regulatory bodies in the oil and gas sector.
5. It is recommended that the proposal of including ecocide as the fifth Crime Against Peace should be urgently resurrected for serious consideration by the UN as its recognition in international law could be a potent and effective measure to address contemporary environmental plagues in different places in the world.

6. It is recommended that in consonance with the provisions on ecocide by the ten States that have codified ecocide in their Penal/ Criminal Codes, there should be no test of intent in the provision on ecocide as the fifth Crime Against Peace to be included in the Rome Statute, thereby making ecocide a crime of strict liability. This is to prevent individuals and companies who commit ecocide from employing the defence that mass damage or destruction caused was not intended by their action. This certainly makes the law really potent and effective.
7. It is recommended that Nigeria should take a cue from the ten States that have already codified ecocide in their Penal/ Criminal Codes by also enacting ecocide (devoid of test of intent) as law since this will certainly provide a potent weapon to address the deplorable and life-threatening conditions of environmental degradation in the Niger Delta in particular and Nigeria in general.
8. It is recommended that concerted efforts should be made by the international community under the umbrella of the UN to create a binding instrument providing for the human right to water for all people which could be named “A Convention on the Right to Potable Water.”
9. It is recommended that potable water which is one of the natural resources for man’s survival, and invariably a prerequisite for enjoyment of other human rights, should be recognized as an undeniable right of all people in Nigeria as it is in some other climes. It is believed that this will go a long way in addressing the bizarre problem of water pollution in the Nigerian Niger Delta.
10. It is recommended that for biodiversity and indeed environmental protection to be entire and all-embracing in the international community, the right to healthy environment should not only be anthropocentric but should incorporate biodiversity protection as excellently illustrated in the Constitutions of Brazil and Montana.
11. With the severe and dangerous threat to biodiversity in the Niger Delta of Nigeria brought about mainly through oil spills and

gas flaring, it is recommended that the right to environment should be made actionable. In this regard, an amendment of the 1999 Constitution of the Federal Republic of Nigeria (as amended) is recommended thus: the right to environment should be expanded to specifically incorporate biodiversity preservation and moved from Chapter II to Chapter IV so that the right could be enforceable.

12. While the recommendation that an environmental restoration fund for Ogoniland be set up with a take-off sum of \$1bn is commendable, it must be noted, however, that there are other communities in the Niger Delta that have equal or even worse cases of oil pollution than Ogoniland. It is, therefore, recommended that similar scientific assessment and restorative approach should be extended to the entire Niger Delta region.

Concluding Remarks

Mr. Vice Chancellor Sir, ladies and gentlemen, the Niger Delta and indeed the entire global environment needs protection. I have tried in this lecture to dwell on how the law can be employed as a weapon in the battle against environmental degradation with special focus on the Niger Delta. It is glaringly apparent that traditional common law torts have not produced the desired results. It is, therefore, necessary to deploy more potent and effective legal weapons in the battle. In this regard, I have established that a multi-pronged approach requiring human rights, ecocide law void of intent, and creating binding agreements under the umbrella of the United Nations could help to guarantee victory in the battle against environmental degradation.

Mr Vice Chancellor Sir, kindly permit me as I end this lecture to quote another verse from the Holy Bible:

But thou, O LORD, art a shield for me; my glory, and the lifter up of my head (Psalm 3:3).

These words are weighty and worth believing by all men. They have been proved to be true even in my life. Whatever height men attain

in life is by divine lifting. Indeed, I am what I am, all by the grace of God. Hallelujah!

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Mr. Vice Chancellor Sir, the journey of life is not always smooth; it is full of ups and downs with slippery patches, dangerous bends, pregnant tomorrows and many adversaries to contend with. But God has been most faithful and He has seen me through thus far in my life journey. He has always been there for me. He has been my Righteous Guide, Mighty Deliverer, Wonderful Saviour, Great Provider, and the Lord God of battles Who has always fought for me and given me victory on every side. May His name be praised forever!

While God is worthy of all the glory, it is true that man is God's instrument and many people too numerous to mention have indeed contributed one way or the other in making me what I am today. I will therefore plead with anyone whose name may be omitted in this roll call to forgive me. First, I must thank God for my parents through whom I came to this world: my dear father, Reverend Canon E. B. Okwezuzu and my sweet mother, Mrs. Ruth Oniovoghae Okwezuzu. They gave me the best upbringing that could be given to any child and encouraged me to attain great heights in academics. My father has rested from his labour. Though she could not make it here as a result of illness from which she is recovering, my mother is alive, still marching on strong with a greying crown of glory as she draws nearer to GLORY LAND: Oni Owoma, your ceaseless and unmatched motherly care, love, wise counsel and encouragement are greatly appreciated.

You will agree with me that an Inaugural Lecture can only be delivered by a Professor. I therefore wish to specially thank the Rt Rev. Professor Dapo Asaju, my highly esteemed and extra-ordinary Vice-Chancellor and Bishop Theologian of the Church of Nigeria (Anglican Communion) for appointing me a Professor and for making this Inaugural Lecture a reality. Please, permit me to recount an incident that occurred after the Vice Chancellor had assumed duty in October 2015, it was while we were preparing for Resource Verification Visit of the Council of Legal Education in the former Faculty of Law building now occupied by the Faculty of

Environmental Sciences. Then, we were to move the electronic library to a more commodious room. We had moved everything except the tables for the computer systems. We found the tables too large to be moved through the doors out of the old room and into the new room. After exploring all options, we decided to break the walls to which the doors were attached to have more space through which we could move the tables. Coordinating this exercise were the Dean and two HODs consisting of two professors in the Faculty then and the next in rank at that time, my humble self. But just before the workmen could start work, the Vice Chancellor arrived, and asked us to hold on. He requested and we took him to the old room where the tables were. He quickly looked around and gave us the solution: disconnect the joints of the tables and move them piecemeal. And that was it! This incident defined my perspective of the Vice Chancellor: a solution provider per excellence! True to type, he has provided solutions to myriads of problems encountered in the University all through his tenure. And, my Lord, I stand to openly testify that I have been richly blessed by this divine endowment upon your life in my personal life, in my career, and in my ministry. While I express gratitude to you for the many and varied ways you have impacted my life positively, it is my prayer, my Lord, that God Almighty would be a Solution Provider to any problems that may come your way in life, in Jesus' name. Amen. I wish to also place on record, my sincere appreciation to our quintessential Mother in Israel, Barr Mrs Harriet Asaju: so kind, so caring, never weary in well doing. God will reward you Mummy.

I wish to express my appreciation to all principal officers of the University – the Deputy Vice Chancellor, the Registrar, the Bursar, and the Librarian. My gratitude also goes to all members of the University Governing Council.

I cannot forget in a hurry the role played by the former Vice Chancellor of this University, Venerable Professor K. T. Jaiyeoba, and the former Registrar, Dr. Mrs. Josephine Oyebanji, for giving me appointment and ensuring that I transferred my services to my Anglican University to join in building our Law Faculty. May the good Lord reward them.

Mr. Vice Chancellor Sir, permit me to recognize the priceless contributions of my MLD and Ph.D Supervisor, Professor Martin O. U. Gasiokwu (of blessed memory) for mentoring me and being a source of great encouragement to me in my academic voyage. I also wish to thank his wife, Mrs Gasiokwu, for her kindness towards me. My LL.M Supervisor, Professor Festus Emiri, also deserve special mention for his role in building in me what I call legal self-confidence. My very special appreciation goes to Professor Ikponmwoasa Omoruyi, former Deputy Vice Chancellor (Administration) University of Benin, a long-standing friend, who was a contemporary during my undergraduate days. He was far ahead of me studying Law then, while I was in English and Literature. Through him, I learnt with great joy how some of the poems I composed during my undergraduate days in English and Literature under the auspices of the Christian Literary Association of Nigeria (UNIBEN Chapter) were displayed on the notice boards at the Nigerian Law School, Lagos where he studied. He later became my teacher when I went for my LL.B programme at the University of Benin. He carefully packaged me for my MLD programme and has since been of tremendous assistance to me in my career. He has been a friend, teacher, counselor and career guide. May the good Lord richly bless you, Prof.

I acknowledge with gratitude the generosity of my father's younger brother, D. S. Okwezuzu (of blessed memory). Before the vagaries of life threw him into the mire of financial difficulty, he was a blessing to close associates, Uzere Community as well as Isoko and Urhobo ethnic nationalities. As a family, we indeed tasted of his outstanding generosity in many ways. In the '60s when car owners in Isoko Land could be counted with little effort, D.S.O. (as he was fondly called) bought a brand new Peugeot 403 car for my father who was then a priest of the Anglican Church and could not have afforded such a luxury at that time. This special gift in no small way contributed to our special upbringing. May the good Lord remember his children.

I must never forget Professor Eghosa Osagie, former Vice Chancellor of Benson Idahosa University (BIU), Benin City, so large-hearted, so friendly, so meek, so amiable, and so fatherly. He ensured

that I did not waste the opportunity to proceed to the Law School. He filled all the forms needed to be filled without delay, granted me study leave with pay even when the Law School programme was not directly relevant to the Department of English Studies where I was teaching at that time. He so much believed in me and was convinced that my training in Law would be of benefit to the University. I must also place on record my sincere gratitude to Prof. Mrs Gbenedio who appointed me as an Assistant Lecturer when I started my career at BIU; Prof. Macdonald Idu during whose tenure as Vice Chancellor I was redeployed to the Faculty of Law. I also wish to specially thank Prof. Ernest Izevbigie for all the good things he did to secure my career, the good plan he had in mind for me for which God will surely reward him, and during whose tenure I transferred my services to my own Anglican university though he wanted me to continue in BIU.

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Mr. Vice Chancellor Sir, ladies and gentlemen, I am sure I have taken enough of your time. I wish to specially thank the Vice Chancellor for creating time out of his tight schedule to be here. I must also thank everyone of you for your time and patience in listening to this lecture. But let us remember the divine mandate God has committed to every one of us with regard to the environment: to dress it and to keep it. Go forth therefore and protect the environment. May we not fail in this divine mandate.

Thank you for listening and may God bless you all.

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- ⁷² Ibid. In this paper, hereinafter reference to Niger Delta shall mean the political Niger Delta that consists of the states that generate oil in Southern Nigeria: Delta, Edo, Bayelsa, Rivers, Ondo, Akwa Ibom, Cross River, Imo, and Abia States.
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- In the Niger Delta hundreds of thousands, if not millions of people, depend on fishing and farming for their food and livelihoods. Oil spills, waste dumping, gas flaring, dredging of rivers, seismic operations; all these activities of the oil industry have seriously damaged agricultural lands and waterways of the Niger Delta, thereby damaging people's ability to catch fish, people's ability to grow food and have a livelihood.
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⁹² *Ibid*. at 89. Shah has also pointed out that a series of repressive and corrupt governments in Nigeria have been supported and maintained by western governments and oil companies that are keen on benefiting from the oil that can be exploited and while people and transnational oil companies have been fighting over this “dark nectar” in the delta region, immense poverty and environmental destruction have resulted.’ Shah Anup, *supra* note 89.

⁹³ U.S. NON-GOVERNMENTAL DELEGATION TRIP REPORT, *supra* at 5-11. Key findings of the report include:

1. Oil corporations in the Niger Delta seriously threaten the livelihood of neighboring local communities. Due to the many forms of oil-generated environmental pollution evident throughout the region, farming and fishing have become impossible or extremely difficult in oil-affected areas, and even drinking water has become scarce. Malnourishment and disease appear common.
2. The presence of multinational oil companies has had additional adverse effects on the local economy and society, including loss of property, price inflation, prostitution, and irresponsible fathering by expatriate oil workers.

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¹³⁵ Ofehe, S. “Environmental Pollution in the Niger Delta.” Accessed on 6th April, 2015. Retrieved from <http://www.nigerdeltacampaign.com/index.php/2010/02/environmental-pollution-in-the-niger-delta/>

¹³⁶ Okwezuzu, G. E. “Oil Spillage in the Niger Delta Region: A Complex Instance of Gross Environmental Injustice.” (2012) East African Journal of Peace and Human Rights, Human Rights and Peace Centre (HURIPEC), Faculty of Law, Makerere University, Kampala, Uganda, Vol. 18, No. 2, p. 438.

¹³⁷ Ibid.

¹³⁸ It appears that in oil pollution cases in Nigeria, this tort is yet to be directly pleaded. See Fekumo, J. F. “Civil Liability for Damages Caused by Oil Pollution” in Omotola, J. (ed.) Environmental Laws in Nigeria, p. 256.

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¹⁴⁰ (1975) LPELR-SC.254/1973.

¹⁴¹ (1973) All NLR 61.

¹⁴² Unreported Suit No. SHC/28/67, Jan. 29, 1971, Sapele High Court.

¹⁴³ (1999) 3 NWLR (Pt 593) 1 SC.

- ¹⁴⁴ [1974] 2 RSLR 1.
- ¹⁴⁵ Unreported Suit No. UCH 48/73, Nov. 12, 1974, Ughelli High Court.
- ¹⁴⁶ [1997] 1 NWLR (Pt. 480) 148.
- ¹⁴⁷ (1977) 6 SC 109.
- ¹⁴⁸ (1972) 4 SC 123.
- ¹⁴⁹ (1974) 2 RSLR 1.
- ¹⁵⁰ Unreported Suit No. FHC/L/CS/573/93.
- ¹⁵¹ (1976) NMLR 290.
- ¹⁵² Warri High Court 26 November 1973, Unreported Suit No W/ 89/71.
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- ¹⁵⁸ Ibid. Pp. 234-235.
- ¹⁵⁹ Bell, S. and McGillivray, D. Environmental Law. (6th ed.) (Oxford: Oxford University Press, 2006). P. 15.
- ¹⁶⁰ Cullet, G. P. “Definition of an Environmental Right in a Human Rights Context.” International Environmental Law Research Center, Geneva. Accessed on September 2, 2008. Retrieved from <http://www.ielrc.org/content/a9502.pdf>
- ¹⁶¹ See Communication 155/96 – The Social and Economic Rights Action Centre and Another v. Nigeria. This case was decided at the thirtieth Ordinary Session that took place in Banjul, The Gambia 13–27 October, 2001), available at <http://www1.umn.edu/humanrts/africa/comcases/155-96b.html>

- ¹⁶² See Nwobike, C. “The African Commission on Human and Peoples’ Rights and the Demystification of Second and Third Generation Rights Under the African Charter: Social and Economic Rights Action Center (SERAC) and the Center for Economic and Social Rights (CESR) v. Nigeria.” (2005) *Afr. J. Legal Stud.* Vol. 1, 129, 137-38.
- ¹⁶³ *Ibid.*
- ¹⁶⁴ (2006) 29 WRN 101 (HC).
- ¹⁶⁵ *Ibid* at 30–31.
- ¹⁶⁶ *Ibid* at 14–15.
- ¹⁶⁷ *Ibid* at 31.
- ¹⁶⁸ Ebeku, K. S. A. “Constitutional Right to a Healthy Environment and Human Rights Approaches to Environmental Protection in Nigeria: Gbemre v. Shell Revisited.” (2007) *RECIEL* Vol. 16, No. 3, p. 318.
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- ¹⁷⁹ *Infra* note note 181.
- ¹⁸⁰ *Infra* note 209.
- ¹⁸¹ *Italics mine*. Gray, M. A. "The International Crime of Ecocide." (1995) *California Western International Law Journal* Vol 26, No. 2, p. 271. Accessed on 22nd October, 2015. Retrieved from <http://scholarlycommons.law.cwsl.edu/cwilj/vol26/iss2/3>
- ¹⁸² Kadafa, A. A. "Oil Exploration and Spillage in the Niger Delta of Nigeria." (2012) *Civil and Environmental Research*. Vol. 2, No. 3, p. 38.
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Human Rights Environment and Development in South Asia.” (2000) *ILSA Journal of International and Comparative Law*. Vol. 6, p. 424.

¹⁸⁶ “Human Rights and the Environment: Final Report and Recommendations.” P 12. Accessed on 2nd April, 2015. Retrieved from [http:// www.asiapacificforum.net](http://www.asiapacificforum.net)

¹⁸⁷ See *Gabcikovo-Nagymaros Project (Hung. v. Slov.)*, 1997 I.C.J. 7, 88 (Sept. 25). In this case decided by the ICJ, the then Vice President of the court Christopher Weeramantry in a Separate Opinion pointed out that:

The protection of the environment is likewise a vital part of contemporary human rights doctrine, for it is a *sine qua non* for numerous human rights such as the right to health and the right to life itself. It is scarcely necessary to elaborate on this, as damage to the environment can impair and undermine all the human rights spoken of in the Universal Declaration and other human rights instruments.

¹⁸⁸ See the decision of the European Court of Human Rights in *Tatar and Tatar v. Romania* (2009) Application no. 67021/01 (27 January 2009); *Marangopoulos Foundation for Human Rights v. Greece*, Complaint No. 30/2005 (6 December 2006); the decision of the African Commission on Human and Peoples’ Rights in *Social and Economic Rights Action Center (SERAC) and the Center for Economic and Social Rights (CESR) v. Nigeria*, Comm. 155/96, A.C.H.P.R. Doc. COMM/ A044/ 1 (May 27, 2007); the decision of Inter-American Commission on Human Rights in *Mayagna (Sumo) Awas Tingni Community v. Nicaragua* (Aug. 31, 2001) available at [http:// www.corteidh.or.cr/ seriecing/ serie c 79ing.doc](http://www.corteidh.or.cr/seriecing/seriec79ing.doc). ; *Maya Indigenous Communities of the Toledo District v. Belize*, Case 12.053, Inter-Am. C.H.R., Report No. 40/04, OE/ Ser.L/ V/II.122, doc. 5 rev. 1 P 153 (2004), available at [http:// www.cidh.org/ annualrep/ 2004eng/ Belize.12053eng.htm](http://www.cidh.org/annualrep/2004eng/Belize.12053eng.htm).

¹⁸⁹ See the Pakistani case of *Shehla Zia v. WAPDA* (1994) PLD 693 (SC); Kenyan case of *PK Waweru v. Republic of Kenya* (2006), High Court of Kenya, Misc. Civil Application No. 118 of 2004, 1 KLR (Environment and Land) 677; Israeli case of *Adam, Teva*

ve'Din (Human Being, Nature and Law) v. Prime Minister of Israel et al. (2004) No. 4128/02 (16 March 2004) (Supreme Court); the Nigerian case of Gbemre v. Shell (2006) 29 WRN 101 (HC).

¹⁹⁰ It has been observed that international human rights instruments have typically given insignificant attention to the environment and the three main international human rights instruments hardly mention the link between the environment and human rights. See Thornton, J. & Beckwith, S. *Environmental Law*. (London: Sweet & Maxwell, 2004) p. 386. It is worthy to note that the three major human rights instruments are the 1966 International Covenant on Civil and Political Rights, 1966 International Covenant on Economic, Social and Cultural Rights, and the 1948 Universal Declaration of Human Rights.

¹⁹¹ The right to a healthy environment has been recognized in the following regional instruments: Article 24, African Charter on Human and Peoples' Rights, 1981; Article 11(1) of San Salvador Protocol to the American Convention on Human Rights, 1988; Article 38, Arab Charter on Human Rights, 2004.

¹⁹² In drawing a comparison between international environmental law and human rights law, Burger has indicated:

The scope of international environmental law differs from human rights law in that it does not imbue individuals with non-derogable rights. While some of the international environmental conventions make room for civil society - almost exclusively as participants and monitors, though rarely as active members or as individuals with standing to bring an action to dispute resolution - none of them ensures that individuals have their individual rights protected. A substantive human right to a clean environment would add a degree of protection that individuals do not have under any other regime.

See Burger, M. "Bi-Polar and Polycentric Approaches to Human Rights and the Environment." (2003) *Colum. J. Env'tl. L.* Vol. 28, pp. 383-384.

¹⁹³ Boyd, D. R. "The Constitutional Right to a Healthy Environment."

(2012) Environment: Science and Policy for Sustainable Development. Vol. 54, No. 4, p. 4, available at [http:// dx.doi.org/ 10.1080/00139157.2012.691392](http://dx.doi.org/10.1080/00139157.2012.691392)

- ¹⁹⁴ Boyd, D. R. "A Healthy Environment should Be a Basic Human Right." October 29, 2012. Accessed on 12th March, 2015. Retrieved from [http:// www.davidsuzuki.org/ blogs/ docs-talk/ 2012/ 10/ a-healthy-environment-should-be-a-basic-human-right/](http://www.davidsuzuki.org/blogs/docs-talk/2012/10/a-healthy-environment-should-be-a-basic-human-right/)
- ¹⁹⁵ Boyd, D. R. "The Constitutional Right to a Healthy Environment." Op. Cit. P 3.
- ¹⁹⁶ Ibid. P 5.
- ¹⁹⁷ Ibid. P 12.
- ¹⁹⁸ Ibid.
- ¹⁹⁹ "Independent Expert on human rights and the environment." Accessed on 7th March, 2015. Retrieved from [http:// www.ohchr.org/ EN/ Issues/ Environment/ IEEnvironment/ Pages/ IEenvironmentIndex.aspx](http://www.ohchr.org/EN/Issues/Environment/IEEnvironment/Pages/IEenvironmentIndex.aspx)
- ²⁰⁰ Sharp, P. "Prospects for Environmental Liability in the International Criminal Court." (1999) Virginia Environmental Law Journal. Vol. 18, p. 232. Illustrating with the case of *Beanal v. Freeport-McMoran, Inc.*, 969 F. Supp. 362 (E.D. La. 1997), dismissed with prejudice, 1998 U.S. Dist. LEXIS 2522 (March 3, 1998), Sharp sums up the case as follows: dismissing claim of environmental torts and "cultural genocide" after concluding that cultural genocide was not yet recognized by international law and noting that the law of genocide requires a showing of specific intent to destroy a "group," not a "culture". Sharp, Peter. Ibid.
- ²⁰¹ Ibid. Pp. 232-233.
- ²⁰² Churchill, R. R. "Environmental Rights in Existing Human Rights Treaties." in *Human Rights Approaches to Environmental Protection* 108 (Alan E. Boyle et al. eds., 1996). Cited in Sharp, Peter. Ibid. P 232.
- ²⁰³ Feshbach, M. & Friendly, A. "Facing Facts, in Ecocide of the USSR." (1992) *Health and Nature Under Siege* Vol. 1. Cited in Kraska, J. C. "Global and Going Nowhere: Sustainable Development, Global

Governance and Liberal Democracy.” (2006) *Denv. J. Int’l L. & Pol’y.* Vol. 34, p. 302. According to Feshbach, M. & Friendly, A.,

When historians finally conduct an autopsy of the Soviet Union and Soviet Communism, they may reach the verdict of death by ecocide... No other great industrial civilization so systematically and so long poisoned its land, air, water and people. None so loudly proclaiming its efforts to improve public health and protect nature so degraded both. And no advanced society faced such a bleak political and economic reckoning with so few resources to invest toward recovery.

Feshbach, M. & Friendly, A. *Ibid.*

²⁰⁴ End Ecocide on Earth. “What Is Ecocide?” Accessed on 10th April, 2016. Retrieved from <https://www.endecocide.org/ecocides/>

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.* By global commons End Ecocide on Earth means: “the oceans and seas beyond territorial waters, the atmosphere, outer atmosphere and their respective chemistry, Arctic, Antarctica, cross-border rivers and lakes, ground water, migratory species, biogeochemical cycles, genetic heritages.” End Ecocide on Earth. *Ibid.* These spaces and species known as *Res nullius* in law and which are not owned by anyone, according to End Ecocide on Earth, should no longer be the scene of pollution and abusive predation, thus furthering the protection of the global ecosystem, and in any case the principle of national sovereignty should not be claimed to shirk all liability when they are impacted. End Ecocide on Earth. *Ibid.* It is further revealed that:

... the destruction of an ecosystem service on which rely a human community to live, as a whole or as a sub population is equal to a crime against humanity. Thus, this type of ecocide should not be excluded from an international jurisdiction in the name of national sovereignty, nor be traded through market instruments and trading rights.

End Ecocide on Earth. *Ibid.*

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- ²⁰⁸ Gauger, A., Rabatel-Fernel, M. P., Kulbicki, L., Short, D., and Higgins, P. “Ecocide is the missing 5th Crime Against Peace.” (Human Rights Consortium: London, 2013), p. 6. Accessed on 22nd October, 2015. Retrieved from http://sas-space.sas.ac.uk/4830/1/Ecocide_research_report_19_July_13.pdf
- ²⁰⁹ Fried, J. H. E. “War by Ecocide.” (1972) in Thee, Marek (ed.) *Bulletin of Peace Proposals*. (1973), Vol. 1. Universitetsforlaget, Oslo, Bergen, Tromsø. Cited in Gauger, A. et al. *Ibid*. P.5-6.
- ²¹⁰ E/CN.4/1101, E/CN.4/Sub.2/332; Provisional SR/EICN.4/Sub.2/SR.2/SR.658. See E/CN.4/sub.2/416, paragraphs 462-478. Cited in “UN Whitaker Report on Genocide, 1985, paragraphs 29-42, pages 16 to 28.” Accessed on 10th April, 2016. Retrieved from <http://www.preventgenocide.org/prevent/UNdocs/whitaker/section6.htm>
- ²¹¹ Merriam Webster Dictionary. Accessed on 22nd October, 2015. Retrieved from <http://www.merriam-webster.com/dictionary/ecocide>
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- ²¹³ Merz, P. et al. *Ibid*. P.6.
- ²¹⁴ Berat, L. “Defending the Right to a Healthy Environment: Toward a Crime of Geocide in International Law.” (1993) *Boston University International Law Journal*. Vol. 11, p. 343.
- ²¹⁵ Gray, M. A. *Op. Cit*. P.216.
- ²¹⁶ *Ibid*. note 3.
- ²¹⁷ Merz, P. et al. *Op. Cit*. P.10.
- ²¹⁸ Higgins, P., Short, D. & South, N. “Protecting the Planet: a Proposal

for a Law of Ecocide.” (2013) *Crime Law and Social Change: An Interdisciplinary Journal*. Vol. 59, No. 1. The version of the journal accessed in the course of the research was pageless.

²¹⁹ Merz, P. et al. *Op. Cit.* P 1.

²²⁰ *Ibid.* With regard to the utility of international criminal law in enforcing certain international norms, Megret has pointed out as follows:

There is little doubt that international criminalization is quickly becoming one of the preferred routes to enforce certain international norms. While one may occasionally have reservations about particular features of international criminal repression, the excessive focus on criminalization or even with international criminalization itself, international criminal law is helping to redefine international law and is increasingly associated with various worthy causes. Simultaneously, grave threats to the economic, social and environmental well-being of populations continue to emerge in ways that international law seems to have trouble addressing. In this context one might hope that the rise of international criminal law would contribute to the resolution of these grave threats to some degree.

Megret, F. “Offences Against Future Generations: A Critical Look at the Jodoin/ Saito Proposal and a Suggestion for Future Thought.” Vol. 7, Issue 2, p. 159. Accessed on 13th April, 2016. Retrieved from https://www.academia.edu/15550844/Offences_Against_Future_Generations_A_Critical_Look_at_the_Jodoin_Saito_Proposal_and_a_Suggestion_for_Future_Thought_2011_

²²¹ *Ibid.*

²²² Okwezuzu, G. E. “Revivification of Legal Efforts to Criminalize Ecocide in International Law: Emerging Trend.” (2015-2016) *National Law School Journal*, National Law School of India University (NLSIU), Bangalore, Vol. 13, pp. 52-76.

²²³ Okwezuzu, G. E. “Environmental Pollution in the Niger Delta of Nigeria: Human Rights Vis a Vis Ecocide Law – Which Way Out?”

(2016) *Ajayi Crowther University Law Journal*, Vol. 1, No. 1, pp. 170-187.

²²⁴ *Supra* note 164

²²⁵ The Secretary-General Statement to the General Assembly. UN Website. June 29, 2001. Accessed on January 9, 2007. Retrieved from http://www.un.org/News/dh/latest/sg_20010629.htm

²²⁶ Okwezuzu, G. E. "An Appraisal of United Nations Efforts in International Environmental Protection." (2013) *Indian Journal of International Law*, Vol. 53, No. 4, pp. 582-598.

²²⁷ Okwezuzu, G. E. "Ozone Layer Depletion and the Response of the Global Community." (2012) *The Journal of Jurisprudence and Contemporary Issues*, Vol. 7, No. 1, pp. 188-194.

²²⁸ Gasiokwu, M. O. U. and Okwezuzu, G. E. "International Environmental Protection: UN Efforts Before and After Kyoto Protocol" in M. O. U. Gasiokwu (ed.) *Ecology: Concept, Politics, and Legislation*. (Enugu: Chenglo Ltd, 2013) pp. 594-635.

²²⁹ H. French. "The Role of the UN in Environmental Protection and Sustainable Development." Accessed on July 13, 2013. Retrieved from <http://www.eolss.net/Sample-Chapters/C14/E1-41-01-02.pdf>

²³⁰ Okwezuzu, G. E. "Greenhouse Gases: What They Are" in M. O. U. Gasiokwu (ed.) *Ecology: Concept, Politics, and Legislation*. (Enugu: Chenglo Ltd, 2013) pp. 102-139.

²³¹ Uhuruogu, C. C. and Okwezuzu, G. E. "Copenhagen Conference: Expectations, Outcomes and Imperatives." (2011) *1 National Institute of Advanced Legal Studies (NIALS) Journal of Environmental Law*, pp. 33-58.

²³² Okwezuzu, G. E. "Climate Change and Global Warming: The International Community Response." (2011) *Kogi State University Law Journal*, Vols 2 & 3, pp. 185-209.

CITATION OF
VENERABLE PROFESSOR GAIUS
EMAMUZOU OKWEZUZU

The Venerable Professor Gaius Emamuzou Okwezuzu was born on 29th day of January, 1967 in Oleh, the headquarters of the then Isoko Local Government Area of Delta State to the family of Late Revd Canon Elisha Boe Okwezuzu of Uweye Quarters, Uzere and Mrs Ruth Oniovoghae Okwezuzu, nee Odize Ifewhario of Iyovie Quarters, Aviara, both in present day Isoko South Local Government Area, Delta State.

He had his primary education at Uruogbe Primary School, Iluelogbo (now Owhelogbo), Ohrode Primary School, Aviara, and Uzere Primary School, Uzere, from 1972 to 1978. The movement from school to school was due to the fact that his father was a priest of the Anglican Communion who was transferred from station to station in the course of ministry. He went to Emore Grammar School, Oleh in 1978, but finally completed his Secondary Education at Notre Dame College, Ozoro in 1985, graduating as the all-round best student in the West African School Certificate Examination in that school. Shortly after his secondary education, he spent some time in pursuit of Higher School Certificate (HSC) at Government College, Ughelli in the 1985/1986 academic session before leaving for Blossom JAMB Preparatory Center in Lagos where he prepared for and wrote the Joint Matriculation Examination to gain admission into the Department of English and Literature, University of Benin with the highest JAMB score in the department in 1987. In 1991, he obtained his B.A. (Hons) Degree in English and Literature. He did his National Youth Service Corps programme in Plateau State between 1991 and 1992.

Venerable Professor Gaius Okwezuzu has other academic and professional qualifications to his credit. These include MA, English and Literature, obtained from the University of Benin, Benin City, where he graduated as the best student in the 1996/1997 class of the Department; Bachelor of Laws (LL.B), 2003, also from the University of Benin, Benin City. He immediately proceeded to the Nigerian Law School (Enugu Campus) and was called to the

Nigerian Bar in 2004. Thereafter, he gained admission into the Delta State University, Abraka, in 2006, and completed his Masters in Law and Diplomacy (MLD) at the Faculty of Law (Oleh Campus) with the best Dissertation (rated 'A' by the External Defence Panel) among the graduating students in the MLD/LL.M class of 2007/2008 academic session. In the course of his academic peregrination, he also gave some attention to ministerial training as an ordained minister of God and this took him to Bishop Crowther College of Theology, Okene where he got his Diploma in Theology in 2010. In order to become a well-rounded legal scholar, in 2009, he went for his Master of Laws (LL.M) in Delta State University which he completed as the all-round Best Student in the LL.M/MLD class of 2011 and also with the best Dissertation (rated 'A' by the External Defence Panel) among all graduating students. He later put in for the Doctor of Philosophy (Ph.D) in Law programme which he completed in 2017. It is noteworthy that Gaius Okwezuzu was the first student known to have run the Ph.D in Law program for three academic sessions since the inception of the Ph.D in Law Programme in Delta State University, Abraka. The great and quintessential scholar, Professor Martin O. U. Gasiokwu (of blessed memory) supervised his Ph.D thesis and his MLD dissertation while the famous Professor Festus Emiri supervised his LL.M dissertation.

Before his teaching career in the university, Okwezuzu was Editor/Manager (General Duties), Neraso Publishers Ltd, Benin City, from November 1992 to April 1993; Tutor (English and Literature) in Lydia Secondary School (May 1993 to October 1994) and Greater Tomorrow Secondary School (November 1994 to September 1997) both in Benin City. He engaged in legal practice as a Counsel with Edjeba and Co. in Benin City from 2005 to 2015 before relocating to Oyo.

Professor Okwezuzu started his university teaching career 3rd August 1998 as a foundation staff and an Assistant Lecturer in Benson Idahosa University (then Christian Faith University) where he taught in the Interdisciplinary Studies Unit/ General Studies Unit, Department of English Studies and Faculty of Law. While he was in the employment of Benson Idahosa University, he served in a number of positions and committees, such as: Coordinator, Interdisciplinary

Studies/ General Studies Unit, 2002 – 2004; Member – University Admissions Board, 2005 to 2011; Chairman, Investigation (and Arbitration) Panel (Staff), 2006; and Member/ Secretary, Independent Examination Malpractice Investigation Panel, 2009.. He transferred his services to Ajayi Crowther University, Oyo as a pioneer staff and a Senior Lecturer in the Faculty of Law in 2015. He was appointed Associate Professor in 2017 and Professor in 2020. He has served Ajayi Crowther University in various capacities and these include Ag. Head, Department of Private and Business Law, October 2015 to October 2017; Ag. Head, Department of Public and International Law, October 2017 to October 2018; Coordinator, Faculty of Law, August to November 2016; Member, Business Committee of Senate, 2015 to 2019; Coordinator, Faculty of Law Staff Devotion, 2015 to 2018; Chairman, Faculty Examination Malpractice Committee, 2015 to 2017; Member, University Curriculum Committee, October 2015 till date; Member, Senate Research and Grant Committee, July 2019 till date; Member, University Chapel Committee, April 2018 till date; and Faculty Representative, Senate, November 2019 till date. He has been the Managing Editor of Ajayi Crowther University Law Journal since inception in 2016 and is currently the Deputy Editor-in-Chief. He is Editorial Consultant/ Adviser, Journal of Law, Society and Development (JOLASAD). He is a member of some professional and learned bodies such as Nigerian Bar Association (NBA); Nigerian Association of Law Teachers (NALT); NALT Environmental and Energy Group; and Society for International Humanitarian Law Teachers.

He has about forty scholarly publications to his credit, both local and international. He has attended numerous local and international conferences. In 2015, he was selected for the World Congress on Contemporary Issues in International Law held in New Delhi where he presented his paper captioned “An Appraisal of United Nations Efforts in International Environmental Protection.” Among participants at the World Congress were three Judges of the International Court of Justice (the World Court) including the then President, International Court of Justice, Judge Peter Tomka; Judge Ahmed Yusuf (the current President of the International Court of Justice, and several eminent professors and legal scholars from

different jurisdictions. It is worthy of note that Venerable Professor Gaius Okwezuzu was the only Law lecturer invited from an African University to present a paper in that notable global conference.

The Venerable Professor Gaius Okwezuzu surrendered his life to the LORD JESUS CHRIST in 1985 and has since been actively involved in CHRIST's service in prayer, evangelism and the teaching ministries. He was commissioned a Diocesan Lay Reader of the old Warri Diocese in 1989. He is a priest of Western Izon Diocese and was ordained by the Rt Rev. E. B. Enamezi (JP) in 2008. He was a Serving Priest in All Saints' Chapel, University of Benin, Benin City, where he served for 28 years both as a lay worker and an ordained minister before he relocated to Oyo in 2015. He is currently a serving priest in the University Chapel where he served as the Coordinator of the Ajayi Crowther University Staff Fellowship (2019 to 2020). He was recently appointed the Coordinator, University Community Service.

Venerable Professor Gaius Okwezuzu is happily married to Mrs Mary Olubunmi Okwezuzu (the University Students' Affairs Officer) and they are blessed with three children – Mekparobono, Elo-Oghene and Jomafowhe.