

JUSTIFYING THE CALL FOR REGULATING COMPENSATION FOR OIL SPILLAGE IN THE NIGER DELTA: A LEGAL PERSPECTIVE*

Abstract

This study sought to justify the call for adequate compensation for oil spillage victims in the Niger Delta. The exploration of oil in Nigeria is a major source of national development. Incidentally, it is also a source of environmental discomfort, degradation and grief to the oil producing areas in the country because of the devastating effect of spillages from pipelines and oil wells. The problems of environmental pollution with regard to oil and gas mining operations in Nigeria are multifarious. While it could be legal, it could also be political or economic. The violators, the multi-national companies, unlike their foreign counterparts refuse to pay fair and adequate compensation when pollution occurs. Even when compensation is paid, different standards are applied which amounts to double standard. This study looked at some of these problems involved in obtaining fair and adequate compensation in the oil and gas sector. Methodology adopted is doctrinal while the approaches are analytical, historical and comparative. This involves desk and library research; placing reliance on primary and secondary source materials relevant to compensation arising from oil and gas pollution. The primary source materials include case laws, statutes, regulations, international treaties and conventions. A literature review of secondary source materials, textbooks, journals, articles and commentaries, case citations, legal news, legal dictionaries, law reviews, legal treaties and legal encyclopedias was also undertaken.

Keyword: Oil Spillage, Compensation, Environmental Degradation, Niger-Delta

1. Introduction

The exploration of oil in Nigeria has become a major source of development but incidentally, it is also a source of environmental discomfort, degradation and grief to the oil producing areas in the country because of the devastating effect of spillages from pipelines and oil wells. Olanrenaju Fagbohein¹ and² were of the view that, Nigerian courts have not reflected much influence in the area of restoration aftermath of oil pollution. The courts had cause to intervene on regular basis to give remedy by way of compensation to victims of oil pollution that has been prevented on the right to relief as structured under private law. Akpezi Eleyae Ogbuigwe³ and Simpson & Fagbohun⁴ opined that, no direct provision has been made for compensating victims of environmental and industrial pollution, and the few provisions on compensation cannot properly cater for the particular situation of such victims. The provisions of the Land Use Act, the Petroleum Act, Mineral and Mining Act, and other legislations made in respect of compensating victims of environmental degradation only mentioned about compensation, but does not go further to specify how a victim can be compensated specifically. The provisions of the above legislations had no further solution on how a victim can be adequately compensated. Nwosu in his work⁵ observed that, there are inherent difficulties faced by victims in their quest to make claim under these Common Law Rules. Victims of environmental pollution, who relied on these claims, cannot get adequate compensation. Ebeku's⁶ work in this area of Environmental Law just like many other authors examined the common Law of tort based claims of remedies. But he did not discuss on how fair and adequate compensation will be paid to victim(s) who suffers injury arising

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¹See the law of oil pollution & environmental restoration. A comparative overview published by Odade Publishers, Comfort House (3rd floor) 13 Hughes Avenue Alagomeji, Yaba, Lagos, Nigeria) and Adamu Kyuma

²See *Environmental Protection Law in Nigeria*, published by Ababa Press Ltd, 159 Oyo Road, Coca Cola Area Sanjo, Ibadan 2012

³See compensation and remedies for victims of crime in Nigeria edited by Sade Adetiba, published by the Federal Ministry of Justice (1990 vol 5)

⁴See *Environmental Law and Policy* published by Law Centre, Faculty of Law, Lagos State University (1990) reprint in 2000

⁵See Nwosu L.E. *Appropriate Mechanism for Entertainment of Environmental claims Juriscope*. A completion of work shop materials of Alpha juris containing legal Education 1st ed. Design constrain Ikeja, Lagos, 2001 series

⁶ see Ebeku K.S.A, *Legal Remedies for Victims of Environmental Pollution in Nigeria*, NLPJ Council of Legal Education, Nigerian Law School 1998 Vol.2

from oil pollution. Fekumo⁷ opined that, the victims of Environmental Pollution should proof strict liability and damages given the poverty level of most victims of environmental pollution in Nigeria. But the proof of strict liability will not amount to adequate compensation to victims who suffers injury arising from environmental pollution.

Ibidapo-Obe's⁸ limits himself from criminal liability resulting from pollution fines and other penalties, but never made mention on how victims of environmental pollution will be adequately compensated, and his assertion fall short of the expectations of the victims that suffers injuries arising from oil and gas exploration in Nigeria. Adekunbi Imoseni and Nzeribe Abangwu in their article,⁹ dwelt on the factors inhibiting compensation of oil spill victims in the Nigeria oil industry, but never discussed the solutions or how such victims be compensation adequately.

According to Section 11(5) of the oil pipelines Act 1959,¹⁰ the holder of a licence shall pay compensation:

- (a) To any person whose land or interest in land (whether) or not it is land in respect of which the licence has been granted) is injuriously affected by the exercise of the rights conferred by the licence, for any such injurious affection not otherwise made good, and;
- (b) To any person suffering damage by reason of any neglect on the part of the holder or his agents, servants, or workmen to protect, maintain or repair any work, structure or thing executed under the licence, for any such damage, not otherwise made good, and;
- (c) To any person suffering damage (other than on account of the malicious act of a third person) as a consequence of any breakage of or leakage from the pipeline or an ancillary installation, for any such damage not otherwise made good.

If the amount of such compensation is not agreed between any such person and the holder, it shall be fixed by court in accordance with part IV of this Act. While Section 20 (2) of the oil pipelines Act¹¹ provides for the various heads of compensation, and this section must be read alongside with section 11(5), section 20(2) provides as viz: (i) buildings, crops or profitable trees, (ii) disturbance (iii) injurious affections and (iv) loss (if any) in value of the land or interests in land. It is settled law that the principal liability of the licensee arising from the above provisions is to pay compensation (as distinct from damages) from any injury or damage caused by any person.¹² Some observations could be made on the above provisions. The liability in section 11(5) (a) covers damages arising from the acquisition of land or interest in land for the laying of the oil pipeline and ancillary installations. It also encapsulates damages to third party property rights outside the area covered by the licence.¹³ It also provides for injurious affection which is akin to nuisance.¹⁴ Secondly, section 11(5) (b) provides for negligence, and this had provided an escape route for petroleum operators. Certainly, an action for negligence is incompatible with a claim for compensation. In the former the fault element on the part of the defendant is paramount, whereas for compensation, the act of the defendant maybe perfectly lawful and faultless, what the plaintiff needs to show is that he has suffered some injury.¹⁵ Thirdly, section 11(5) (c) provides for strict liability, which is akin to the rule in *Rylands v Fletcher*, with only the two defenses of default

⁷see Fekumo J.F. 'Civil Liability for Damages cause by Oil pollution' in Omotola (ed) *Environmental Law in Nigeria including compensation*, University of Lagos, 1998

⁸see Ibidapo – Obe A 'Criminal Liability of Damages cause by Oil Pollution' in Omotola (ed) *Environmental Law in Nigeria including compensation*, University of Lagos, 1998

⁹see compensation of oil spill victims in Nigeria, the more the oil, the more the blood *Singaporean Journal of Business Economics and Management Studies* vol.2, No.3, 2013, School Of Law and Securities Studies, Babcock University Ilesan Reno, Ogun State, Nigeria

¹⁰. Now Cap of LFN 2004

³. Supra

¹²See J.F FEKUMO, *Disturbance and injurious Affection in the Nigerian Petroleum Industry* (1998) Springfield Publishers, Owerri, Nigeria) P.I.I.

¹³See *Law and Petroleum Industry in Nigeria, Current Challenges, Essay In Honour of Justice Kate Abiri* edited by Festus Emma Deinduomo, published by Malthouse Press Limited, 2009, 143 Onitana Street, off Stadium Hotel Road, Surulere Lagos State, pp 140-141.

¹⁴See *Ehorlor v Isahasa* (1992) 2 NWLR (pt 223) at pp 336-339, K. Davis, *Law of compulsory purchase and compensation* (1984, 4th ed, Butterworths, London, pp 178-179.

¹⁵See Per Nnaemeka-Agu JCA (as he then was) in *Ndah v Attorney General, Bendel State and others* (1979) 12 CA 243 at pp. 267-268 (1980) 1RSLR, 1 at p.12.

of the plaintiffs and malicious act of a third party. Not minding the fact that the provisions of section 11(5) (a) (b) (c) of the Act incorporated the common law remedies of nuisance, negligence, and the rule in *Rylands V Fletcher*, there is no need to allege any of these torts as the duty to pay compensation is statutory. All the plaintiff required is to allege and prove that the damage was caused by the defendant, arising from the execution of the works authorized by the statute. It is then left for the defendant to raise the defence of the default of the plaintiff or the malicious act of a third person.

2. National Laws and Regulations on Compensation of Victims of Oil Spill

The Nigeria legislations on oil and the environment is provided by several enactment including Petroleum Act (originally, Degree N0.31 of 1969)¹⁶, Oil Pipeline Act¹⁷, Minerals and Mining Act¹⁸, Oil in Navigable Waters Act,¹⁹ and the Associated Gas (Re-Injection) Act 1979²⁰, Association Gas Re-Injection Act (continued Flaring Gas) Regulations, a subsidiary legislation made under section 3 and 5 of the Act, the Petroleum (Drilling and Production) Regulations of 1969 made under the Petroleum Act, Environmental Impact Assessment Act of 1992²¹, the Federal Environmental Protection Agency Act²² and its accompanying regulations made under the Act and the Environmental Guidelines as made by the Director of Petroleum Resources (DPR). These laws and others provide the rules and regulations for the oil industry in Nigeria.

National Environmental Standards and Regulations Enforcement Agency (Establishment) Act (NESREA) 2007 (2007 Act N0.25)

This Act was enacted to provide for the establishment of the National Environmental Standards and Regulations Endorsement Agency, which is saddled with the responsibility for the protection and development of the environment in Nigeria and for related matters. It has a total of 38 Sections, structured under 6 parts. The Act is a belated response of the law to which was at a time a revolutionary change in the structure of environmental enforcement and regulations in Nigeria. It was pursuant to FEPA Act that the Federal Environmental Protection Agency (FEPA) was established. Consequently, when the Agency was scrapped out in 1999 and the Ministry of Environment assumed its functions. Expectations were high that, the FEPA Act would be reviewed to reflect the new development and that in the course of a review, provisions that were inarticulate in the FEPA Act, would become articulate in succeeding legislations.

The tenor of the functions of the Agency thereafter changed in the way, it exempted the oil and gas sector from the purview of NESREA. Section 7 in certain respect provides that the Agency shall;

- i) To enforce compliance with regulations on the importation, exportation, distribution, storage, sale, use, handling and disposal of hazardous chemicals and waste other than in the oil and gas sector²³
- ii) To enforce through compliance monitoring, the environmental regulations and standards on noise, air, land, seas, oceans and other water bodies other than in the oil and gas sector²⁴
- iii) To enforce environmental control measures through registration, licensing and permitting system other than in the oil and gas sector²⁵.
- iv) To conduct environmental audit and established data bank on regulation and enforcement mechanisms of environmental standards other than in the oil and gas Sector²⁶.
- v) To create public awareness and provide environmental education on sustainable environmental management, promote private sector compliance with environmental regulations other than in the oil and gas sector and publish general scientific or other data resulting from the performance of its functions.²⁷.

¹⁶ Now Cap p.10 LFN 2004

¹⁷ Degree N0. 31 of 1956, now Cap 07 LFN 2004

¹⁸ Degree N0.31 of 1956, now cap pl.12 LFN 2004

¹⁹ Degree N0.38 of 1968, now cap 06 LFN 2004

²⁰ Now Cap A25 LFN 2004

²¹ Cap E12 LFN 2004

²² See 1988 now cap F10 LFN 2004

²³ See section 7 (g) NESREA Act

²⁴ See section 7 (k) NESREA Act

²⁵ See Section 7 (j) NESREA Act

²⁶ See Section 7 (k) NESREA Act

²⁷ See section 7 (i) NESREA Act

Petroleum Act and Other Applicable Regulations

The schedule 1, paragraph 36 of the Act provides thus:

The holder of an OEL, OPL and OML shall in addition to any liability for compensation to which he may be subject under any other provision of this Act, be liable to pay fair and adequate compensation for the disturbance of surface or other rights to any person who owns or is in lawful occupation of the licensed or leased lands.

Where the oil company fails to perform its duties and obligations imposed on by statute and such neglect causes any damage or injury to an individual or community as the case maybe, that company will be held liable to pay compensation. The Petroleum (Drilling and Production) Regulation 1969 issued under section 9 of the petroleum Act, contains specific protective measures for preserving the land resources in areas impacted negatively upon by oil drilling operations²⁸.

Petroleum (Drilling and Production) Regulations

The licenses granted to the companies are made vicariously liable for all actions and liabilities of independent contractors carrying out work on their behalf²⁹. The oil companies are generally obliged to adopt all practicable precaution including the provision of up to date equipment to prevent pollution and shall take 'prompt steps to control and if possible end it'³⁰ if pollution does not occur it is submitted that Regulation 25 envisages a situation where, there will be mass destruction of marine life due to oil pollution and therefore urge the lessee to employ appropriate standards (of international standard possibly) to prevent, clear and control oil pollution. However, we suggest that, the entire gamut of this provision is vague in that, what amounts to 'practical precaution' is not articulately specified. It therefore means provision of up to date equipment, which is subject to the approval of the director of petroleum resources.

Oil Pipeline Act

The Oil Pipeline is the cheapest and most convenient means of transportation of petroleum from the well location to its final destination. This system is applicable to transportation of gas, in construction of pipelines and carrying out its operations, the oil company is under an obligation to pay compensation for damages breakage or a leakage from oil pipeline or its ancillary installations. The Oil Pipelines Act³¹ provides thus;

'The holder of a license shall pay compensation to;

- a) To any person whose land or interest in land (whether or not it is land in respect of which the license has been granted) is injuriously affected by the exercise of the rights conferred by the license, for any such injurious affection not otherwise made good, and
- b) To any person suffering damage by reason of any neglect on the part of the holder or his agents, servants or workmen to protect, maintain or repair any work structure or thing executed under the license, for such damage not otherwise made good, and
- c) To any person suffering damage (other than an account of his own default or on account of the malicious act of the third person) as consequence of any breakage of or leakage from the pipeline or an ancillary installation or any such damage not otherwise made good,
- d) If the amount of such compensation is not agreed between any such person and the holders, it shall be fixed by a court in accordance with part IV of this Act'.

It should be noted that, holder of a license under this heading, is to exercise his powers subject to the provision of this Act and any other enactment or rule of law.³² Therefore, claims for compensation may also succeed under this heading. In the case of *San Ikpede v Shell B.P Petroleum Development Company (Nig) Ltd*,³³ the plaintiff claim for fair and adequate compensation for oil spillage arising

²⁸See M.T. Okorodudu Fubara (1998) *Environmental Protection* p.378

²⁹See Regulations 15(2), Petroleum (Drilling and Production) Regulations

³⁰See Regulation 25 *ibid*

³¹See section 11(5) oil pipelines Act

³²See Section 11(6) *ibid*

³³See 1973) M.W.S.J.61

from the leakage of the defendants oil pipeline succeeds under section 11(5) (c) of the Oil Pipelines Act. According to Ovie-Whiskey J. (as he then was) ³⁴ opined as quote;

...all companies who have been granted a license to prospect for crude oil in the country under the Petroleum Degree 1969 N0.51, can only lay pipes for carrying crude oil on or under the land by virtue of a license granted to them under provisions of the Oil Pipelines Act cap 145 ³⁵. The Act also made it abundantly clear that the holder of such license shall pay compensation to any person suffering damages as a consequence of any leakage from the pipelines...

Environmental Guidelines and Standards for the Oil and Gas Industry

The guidelines specifies the needed standards of obligations placed on oil operators, and where there is environmental pollution caused abruptly by oil and / or gas. The guidelines makes reference to mystery of spills and liability of the polluter thereof, provision is also made for circumstances where the licensee/lessee shall be responsible for the containment and subsequent recovery of any spill, which is discovered within the operational base whether or not its sources is known. This provision makes the explorer and the communities including government to be conscious of the protection of the environment however, whether the fund for reimbursement is always available is yet another matter for consideration.³⁶ When pollution occurs, the polluter is held solely liable.³⁷ But where there are multiple pollutions from different explorers, liability is joint and several.³⁸ The polluter is also responsible in restoring to, as much as possible the original state of any impacted environment.³⁹ it is suggested that this idea maybe for reached, as the environment cannot be returned to full normalcy after pollution even though, it will take time and considerable amount of money to fit it. For water pollution, the guideline provides that, there shall be no visible oil seen within the first 30 days of the occurrence of the spill, no matter the extent of the spill and for swamps, there shall be no single stain the first 60 days of occurrence of the incidents.⁴⁰ The guidelines seem to be parallel with situations in Nigeria, as they are seemingly not spilled. There are situations when spillage in Nigeria will last for months without being cleaned by the pollutants. For example, it was reported ⁴¹ that SPDC has not always responded promptly in the clean-up, clamping or remediation of spilled crude. According to the legal advisory panel, the Inspection Report of Representative committee on public hearing dated 27th May, 2007, indicating that the committee discovered some oil spots yet to be cleaned by SPDC in Biseni. Also, the guideline emphasizes more on oil to the neglect of gas flaring. It is suggested that, the guideline be reviewed to reflect gas flaring instead of leaning more on oil spillage. Various laws concern the obligation of the explorer which create liabilities for them, when there is pollution caused by their act of oil and gas operation.

Oil in Navigable Waters Act, 1968

The transportation of petroleum is essential in the oil industry, which necessitate the use of ships, railway lines by roads, (thus, the use of tankers). It is indeed in the process of transpiration that most spillages do occur. This was the circumstances in the Torrey Canyon Tanker off the coast of England in 1976 and the Santa Barbara California incident of 1969 which precipitated large oil spill pollution⁴². Also, oil spillage may occur at the refineries during the processing period which may include crude oil mixture containing oil effluences, mud or other fluid substances.⁴³ Criminal Liabilities under the Degree includes;

a) Discharge of oil into prohibited sea area, see section 10(1), oil in navigable waters Act, 1968⁴⁴.

³⁴See Supra at pp.88-89

³⁵See section 11(1), (2), (3) and (4) of the oil pipelines Act

³⁶See paragraph 4.01 Environmental Guidelines

³⁷See paragraph 4.01 Environmental Guidelines

³⁸See paragraph 8.1. Ibid

³⁹See Ibid

⁴⁰See Ibid, see generally *Thisday*, February 19, 2001, p.46

⁴¹See *News Watch*, February, 20th 2006 'Niger Delta the \$1.5Billion controversy p.25

⁴²See J.A. Omotola; 'Environmental Laws in Nigeria including compensation' quoted in 'Critical Liability for Damages caused by oil pollution' by A. Ibadapo-Obe p 234

⁴³See Regulations 25, Petroleum Drilling and Production/Regulations

⁴⁴ Now cap.06 LFN 2004

- b) Discharge of oil into Nigeria waters⁴⁵.
- c) Failure to install oil pollution prevention equipment on ships⁴⁶.
Failure to keep record of oil matters⁴⁷.
- d) Harbour authority failing to provide oil reception facilities⁴⁸.
- e) Failure to report presence of oil in harbor waters⁴⁹.

Harmful Waste (Special Criminal Provision, Etc) Act Now Cap H1 LFN 2004

The harmful waste was defined in this Act as ‘any harmful wastes whether solid semi-solid or liquid’⁵⁰ Act and as injurious, poisonous toxic or noxious substance, and in particular includes nuclear wastes emitting radioactive substances if the waste is of such quality, whether with or without other assignment of the same or different substances as to subject any person to the risk of death, fatal injury or in incurable impairment of physical and mental health⁵¹. The Act also prohibits the carrying, dumping, depositing or causing to be carried, deposited or being in possession or any waste which is harmful. The penalty on conviction is life imprisonment, forfeiture of vessel and of land by or on which the harmful waste is dumped respectively.

3. Conclusion and Recommendations

The enforcement of the various environment legislations in Nigeria is bedeviled with so many problems, which involve balancing the divergent yet, connected with social and economic interests. For laws to be effective beneficial and enforced, they must be capable of being obeyed without causing any form of damage to the other areas or aspects on which the society stands. These considerations precipitates rise to more complex issues of the political economy and ideology of the society, they seek to regulate, and the contractions and conflicts which arise by their various nature. For instance, the courts for economic reasons have consistently refused to grant an injunction against any polluter for economic reasons. The defence of sabotage in a civil cause or matter is immaterial sabotage should be made strictly a criminal offence, and should not be involve simply to deny innocent victims of their rights to compensation. Therefore, that the act of sabotage was done by an unknown party should not avail the operator of the liability to pay fair and adequate compensation. The person alleged to have committed the act should be an identifiable being and not just an imaginable person. Also, the requirement to prove or plead negligence under section 11 (5) (b) of Oil Pipelines Act in order to succeed in a compensation claim is not necessary. The polluter should be held liable for any pollution and that the issue of third-party intervention should not arise.

Section 6 (6) (b) and 286 of the Constitution confers general unlimited jurisdiction on the High court. Also, section 42 gave concurrent original jurisdiction to both the State High Court and Federal High Court on matters of interpretation of the fundamental rights provision in Chapter IV of the constitution by virtue of the definition of ‘court’ in section 277 (1) of the constitution to mean the Federal High Court or the High Court of a State.⁵² Also, section 6(4), 11 (5) and 19 of the Oil Pipelines Act conferred jurisdiction on the Magistrate Courts and High Court of a State on matters of compensation. However, the enactment of the 1999 constitution seems to have changed the position stated above. Section 272 (1) of the 1999 constitution has deleted the word ‘unlimited’ vis-à-vis jurisdiction as contained in section 236 (1) of the 1979 constitution. In the same vein, section 272 (1) of the 1999 constitution is now subject to the exclusive jurisdiction conferred on the Federal High Court in section 251 (1) of the 1999 constitution.

The exclusive jurisdiction of the Federal High Court in matters pertaining to mines, minerals, oil fields and oil mining was confirmed by the Supreme Court in the case of *Shell Petroleum Development*

⁴⁵ Now cap.06 LFN 2004

⁴⁶See section 5(6) ibid

⁴⁷See section 7 Ibid

⁴⁸See section 8 (8) Ibid

⁴⁹See section 10 Ibid

⁵⁰See section 1 (3) harmful wastes (special criminal provision, etc

⁵¹See section 13 Ibid

⁵² See J.F Fekumo, *the problem of Jurisdiction* p.14

*Company of Nigeria Limited v. Abel Isaiah*⁵³ and it was also judicially re-affirmed in plethora of cases.⁵⁴ *Shell Petroleum Development Co. of Nigeria Limited v. Otekmalba Maton*⁵⁵. The decisions are sound in principle. The justices of the Supreme Court were up on their judicial Oath. But the judgment could be likened to an atomic bomb thrown on the helpless citizens of the oil-producing areas, particularly in the Niger Delta region. That day, Justice died. Since 1998, so many cases on compensation for oil and gas have been struck out for want of jurisdiction in the High Courts. Many are on the awaiting list, and so many of them have been withdrawn. More so, the oil companies do not help matters either, they are only interested to make *ex gratia* payments and not compensation, because of the enormous damage they too know that is being done to the inhabitation. No State has more than one Federal High Court, and the court is being located in the State Capital, far away from the victims. This is justice denied. Some victims do not have the filing fees in the Federal High Court are beyond the reach of the poor victims of oil and gas pollution.⁵⁶ It is submitted that, the above constitutional provisions need to be commended to achieve the noble aim of the law which is justice.

The law should contain pragmatic measure which will ensure adequate compensation, for victims of oil pollution. Industrial development can only be effectively carried out if, there is intelligent government regulation and control. The Government in enacting such legislation should take into consideration the following;

- 1) The need for victims of environment and industrial pollution to be fully and adequately compensated under a system based on strict liability. Such liability should be placed upon the exploiting companies because they are in good position to bear the risk as they are the ultimate beneficiaries as they made much profits.
- 2) Compulsory insurance by such industries. This would ensure that victims of such pollution would be duly compensated.
- 3) Compensation for pollution damages should be prompt and procedures for such damages should be simple and cheap.
- 4) The main principle to be applied in arriving at the amount of compensation to be awarded in particular cases should be the need to ensure that the standard of the victim does not fall but rather improves.

It is recommended that it will be proper to entertain matters relating to mines and minerals etc at the State High Court by way of enforcement of fundamental rights for compensation on the property compulsorily acquired by the state. By so doing, it will alleviate the injustice experienced by victims of oil producing states who suffers environmental degradation and other health hazards without hope of embracing justice, due to the institutionalized provisions of our various legislations or laws. The Lands Tribunals as established under the abolished Public Lands Acquisition (miscellaneous) Provisions) Act, 1976⁵⁷ should be reviewed, and authority be vested on the tribunal to generally hear land compensation matters⁵⁸. The laws made by the Federal Government in respect to compensation arising from oil and gas operations in Nigeria which include but limited to the Oil Pipelines Act, Petroleum Act, constitution of the Federal Republic of Nigeria (1999) as amended, Mining and Minerals Act, Land Use Act e.t.c, be harnessed together and a new law be enacted by the National Assembly which will address once and for all the bases of determining fair and adequate compensation to the environmental victims who suffers damage or injury arising from oil and gas operations in Nigeria. The Federal Government should establish special courts or tribunals in the Niger Delta region for environmental matters arising from oil and gas operations. There should be appointment of Judges that specialize on environmental matters into the environmental courts that will be so established. It is our humble view that such judges with environmental education, awareness and knowledge, will dispense environmental matters / litigations expeditiously and on its merits. Also, judges should be liberal on common law interpretation to avoid unnecessary rigidity to technicalities as was in the case *Seismograph Services, Onakpasa*⁵⁹, *Oronto*

⁵³ See *Supra*

⁵⁴ See *Bary v Eric* (1998) 8NWLR (pt.562) 404 at p. 416

⁵⁵ (2000) FWLR (Pt.47), 1030 AT P.104 (2001) 9 NWLR (Pt. 719) 541)

⁵⁶ See J.F. Fekumo *Supra*

⁵⁷ See Act N0.33 of 1976, Section 12

⁵⁸ See J.F. Fekumo, *op cit.* pp.24-28

⁵⁹ See *Supra*

*Douglas C SPDC*⁶⁰ and *SPDC Ltd. V. Enoch*⁶¹. There should be cross-fertilization of judicial ideas on environmental matters between Nigeria and the developed foreign jurisdiction. Non-government organization in the Niger Delta region should rise to the challenges of educating the public on the need to protect the environment in view of the importance of disturbance and injurious affections as heads of claim in compensation, to enable us arrive at what may be considered as fair and adequate compensation. It is recommended that, only the relevant provisions of the Oil Pipelines Act and the Petroleum Act should be relied on. With regard to gas flaring which have over the years impacted negatively on the Nigerian Environment and indeed globally, it is recommended that one quick outlet to the termination of gas flaring in Nigeria is the expansion of NLNG project in Nigeria, creating more gas fields and completing the proposed West African Gas Pipeline Projects. These developments will create new markets for the sale of the abundant gas in Nigeria and will generate a major source of revenue that could in no distant time strengthen the Nigeria currency and economy, while availing the teeming unemployed Youths with better employment opportunities.

⁶⁰ See *Supra*

⁶¹ See 1992 8 NWLR (pt. 259) 335