QUEST FOR ENVIRONMENTAL PROTECTION AND INTEGRITY IN NIGERIA[1]*

Abstract
The evolution of environmental laws in Nigeria began as a result of the need to combat the increasing menace and incidents of environmental issues. These challenges range from deforestation, desertification, air pollution, land pollution, water pollution, noise pollution, waste pollution, oil and gas flaring, atmospheric imbalance, etc. Today the Nigerian Environment remains more threatened than ever before from the effects of environmental problems. Therefore, the emphasis over environmental degradation in Nigeria is gradually shifting from the absence of adequate regulations with criminal sanctions on the environmental infractions of these laws to the enforcement of the plethora of laws. The challenges in enforcing these laws are enormous as the agencies vested with the power to enforce the laws witness some challenges such as inadequacy of trained staff and equipment and even in some cases apathy to go after offenders. The aim of this article is therefore to critically examine the prime issue of environmental sustainability and governance, the law as it is in other developed jurisdictions like United Kingdom, Canada, United State of America and others, the production of oil and gas and its consequent environmental impact is further examined in comparative context in this article with more attention on the above mentioned countries. It also has recommendation for reviewed to provide for stiffer sanctions that would effectively deter intending environmental polluters.

Keywords: Environmental Protection, Environmental Integrity, Nigeria, Quest

1. Introduction

Environmental governance is a key vehicle towards attaining a sustainable environment and society. The challenge of environmental degradation can only be solved effectively by emphasizing the inclusion of the protection of the environment to economic goals so as to ensure the attainment of environmental sustainability. There is therefore a need to develop policies, joint actions and the best practices for improved environmental governance in Nigeria in order to avoid compromising the country ability to achieve its economic and social objectives on a sustainable basis. Sustainable environmental governance is an approach to environmental governing that seeks to balance environmental protection against economic growth and social justice. The sustainable development commitments that nations made at the United Nations Conference on the environment and development in Rio de Janeiro in 1992 and that they reaffirmed in 1997 and 2002, are, of course national commitments. The cross-cutting nature of sustainability means that it is not confined to a single subject or a single administrative agency, department, or ministry. Rather, national commitment requires the engagement of the federal or national government. Two of the articles in this special issue focus on law for sustainability at the national level-one in the United Kingdom (which has long had a national strategy), and the other in the United State (which has never had end). The United Kingdom has had a national sustainable development strategy since 1994, the content of which has evolved over time. Nonetheless, that strategy lacks a strong legal foundation. The United Kingdom strategy is progressive in tone and substance, according to Ross. However, it has not been particularly effective at delivering the three criteria (mentioned above) that the sustainable development commission says must be met. The biggest problem, as Ross sees it, is that: three seems to be very little understanding or coherent thought about what exactly sustainable development means and its role in governance'. Three models for legislation are available – a procedural model (requiring for example, the development of a strategy but not necessarily requiring adherence to the strategy), a law that explicitly establishes a sustainable development strategy as the point of reference for all decision making (or, at a minimum, environmental decisions making), and a law that makes sustainable development the organizing principle for national governance. Although she prefers the third model, because the implementation of sustainable development in the United Kingdom since 1994 has also evolved in stages, whichever legally enforceable obligation (if only to observe required procedures). And attract greater public attention to sustainability. Abbott and Marchant argue that at least five mechanism are available in the United States to institutionalize a national approach to sustainability these are: (1) an executive order requiring federal agencies to work broadly towards sustainability, (2) a sustainability impact assessment process that would include analysis of the effect of agency policies and programs, (3) a nonpartisan congressional joint committee on sustainability to assist congress in examining the effect of laws and recommending reforms, (4) a federal sustainability commission modeled on the United kingdom sustainable development commission that would advise the government and advocate and monitor sustainability activities, and (5) an independent sustainability law reform commission that would be tasked with reviewing existing federal law from the perspective of sustainability and recommending amendments, enactment and repeals. These

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mechanisms, they say, illustrate a reasonable range of possible approaches that could be used in the United States to foster sustainability. It is not enough, of course to simply throw laws at a problem.

2. Environmental Sustainability and Utilizations

Environmental sustainability is important because it involves natural resources that human being need for economic or manufactured capital. Materials taken from nature are used for situations that address human needs. If nature is depleted faster than it can generate, human will be left without raw materials.[2] The way and manner in which man subjects the environment to certain activities tends towards the destruction of man himself or the dislocation of the ecosystem, such negative result while genuinely unintended by man when acting, that is, for the development and economic interest, comes in direct conflict with environmental sustainability.[3] This environment is very important both to the present as well as the future generations. Any doubt, everything we do has to deal with the environment; as a result, care must be taken to ensure that the resources within the environment are optimally utilized. There cannot be development without the utilization of the available resources within the environment, and consequently, there must be a balance between the development of the resources and attainment of balanced environment.[4]The principle of sustainable development aims at protecting the environment from misuse.

3. Environmental Integrity and Protection

The sustainability concepts are one of the concepts of environmental governance which has been framed by the international community to the quest for the protection and preservation of the environment. The concept of sustainable development was formulated as a welding tool as well as a framework for the realization of economic growth in an environmentally viable world. The concept originated in international law, in realization of the fact that the world environmental, its economics and the ways in which it treats human and animal inhabitants are all interlinked. Three interdependent and mutually reinforcing pillars of sustainable development are presently being recognized worldwide in the transition towards a sustainable society. These are economic sustainability, environmental sustainability and social sustainability. Within this concept, the environmental dimension plays a significant role, being the natural system is embedded. It has been pointed out that the global socio- economic system can only be environmentally sustainable, if the total volume extracted does not overburden the environment.[5] The maintenance of environment functions is thus very crucial for long term economic development and human well-being. It is therefore not surprising that the emphasis is currently being laid on the need to speed up the pace of reforms to improve the state of the environment (European Commission, 2003).[6] Because life on earth is conditioned upon a healthy environment, the environmental pillar must of necessity be viewed as of utmost importance, providing the necessary foundation or stability for the economic and social pillars of sustainability. The integration of environmental governance with social pillars of sustainability, the integration of environmental governance with social and economic governance must therefore imperative for Nigeria to strengthen governance framework to guide the use of the environment in a manner that sustains it for present and future generations.[7] Many nations of the word have made significant progress in the realization of the MDGs. Call have been made for all nations of the world to enact laws that will preserve the environment and to ensure that both economic activities and environmental consideration are integrated in order to ensure sustainable development. Giving the deadlines of 2015 for the realization of environmental sustainability[8]by the MDGs and giving increasing evidence of environmental laws in Nigeria in order to ensure the attainment of the governance[9] of the environment in a

[2]Wikipedia sustainable management, http//en.wikipedia.org/wiki (sustainable management)

[3]Adebayo, S.M., and Arowolo, G.A., the efficacy of the legal framework of combating climate change in Nigeria, *Journal of Private and Property Law*, Vol. 3, (2014) 228.

[4] *Ibid.*

[5]The underlying causes of environmental degradation, http://indiabudget.nic.in/es 98-99/chap. 1104.pdf. access on the 7/9/2017

[6]Aalex What Is the Place of Practice of Environmental Law in Africans Development? http://www.lg.org/article/article 1597.html.1995-2000,(2006) 45

[7] *Ibid*

[8] *Ibid*

[9]The central action principle of sustainable development is integrated decision – making – the incorporation of environmental, social, and economic consideration and goals into decisions. Nicholas Ashford and Ralph hall argue that national government in particular need to migrate "environmental, health, and safety regulation with industrial, trade and employment policies" doing so will achieve not just incremental improvement but rather disruptive or breakthrough innovations that will, for example improve the efficiency with which materials and energy are used by a factor of five or ten, and foster significant opportunities for stable, rewarding, ad meaningful employment with adequate purchasing power" The integration of multiple national objectives necessarily opens up more space to solve problems. Integration fosters technological innovation because a greater range of mutually reinforcing objectives can present a larger number of options for achieving these objectives. Government can achieve this kind of policy integration, Ashford and hall Argue, through a variety of legal and policy tools, including the use of regulation to foster innovation; research and development; "removing regulatory barriers to innovation," tax policies; and encouragement of management – labor bargaining before technological change are planned and implemented. Integration across levels of government is also important =. In many cases the legal rules for a sustainability objective at a higher level of

sustainable manner, thereby fulfilling goal 7 of the MDGs. Nigeria needs a change that will recognize the intrinsic linkage between economic growth and environmental protection, a change will ensure environmental sustainability to pilot the country in the direction of environmental sustainability if Nigeria is to avoid taking a destructive path to economic development. A legal framework for sustainable environmental governance will give a legal definition of the term 'sustainability' and provide the necessary legal compliances.[10] The transformation of the fundamental rules of sustainability into statutory rules will help to give it an increased formal validity. When the obligation to integrate public policies is made legal, its infringement renders the law or regulatory provisions unconstitutional. Thriving for sustainable development as a legal obligation will then be removed from the sphere of political will. This will make the judiciary to be bound to enforce such laws. The transformation of these ethical standards into enforceable norms will make for better environmental governance system in Nigeria. The international law principles are the result of the 1992 RIO conference which is geared towards the regulation, remedying and punishment of activities that threaten the environment which includes oil shale activities.

4. Comparative Analysis

The production of oil and gas and its consequent environmental impact is further examined in comparative context in this research with more attention on the following countries, the United Kingdom, Canada, and the United State of America. The laws regulating hydrocarbon pollution and its operational activities in many developing countries lack the impetus to impose sanction on any violators unlike the above-named countries. The world has today been be-deviled with hydrocarbon pollution that has devastating consequences in different parts of the globe

government are completely separate from the relevant legal rules at a lower level of government. As a result, the lower level of government can make decisions that frustrate or impede sustainability goals. Rachel Medina and A. Dan Tarlock explain how the state of California addressed just such a problem. The states 2006 climate change legislation of reducing California greenhouse gas emissions to 1990 levels by 2020, but it did not address local land use laws that were contributing to sprawl and greater greenhouse gas emission. In 2008, after litigation that challenged these local laws, legislature passed a law encouraging plans that provide for less automobile use. Most observers recognize that sustainability requires new laws and modification to existing laws. It is less often recognized that sustainability can be achieved by simply applying existing laws to new problems, or by making incremental changes in those laws. Many but not all these laws are traditional environmental laws. Nongovernmental organization and the California attorney general, for example forced municipalities in that state to consider the greenhouse gas emission impacts of their land use decision by filling and setting lawsuits under the 1970 California environmental qualities acts (CEQA). This statute requires state and local governments to prepare environment impact reports for decision that will have significant impacts and to reduce or avoid impacts whenever feasible. This litigation, as already noted, led to the adoption of a 2008 statute describing local responsibilities to limit greenhouse gas emission with greater particularity than CEQA. But that legislation would not likely have been adopted without the CEQA litigation. Similarly, Robin Craig and J.B Ruhl survey a range of legal and policy tools that can be used to foster sustainable management of coastal ecosystem – integrated, place – based management strategies and innovative regulations, including market-based instrument. Their starting point is existing law, including adaptation to climate change. For example, they advocate wider use of collaborative governance structure, greater use of "reflex law" (such as information reporting), and more use of economic incentive. While they recognize that governments have begun to use these tools, they argue that they could be "used more pervasively and creatively as part of new sustainable governance institutions" Many of the laws that provide starting points for sustainability are not environmental laws. A 1994 Cuban law made it easier for residents of urban areas to flow and sell food on unused land. Since then, the government has provided financial, technical and marketing assistance for this kind of agriculture. The overall program has increased access to food, led to more organic and sustainable food production, and created jobs—all key elements of a food security program – even though much food is sold on the black market or through foreign currency. Cuba has one of the world's most aggressive and sustainable urban agriculture systems and it is developing in stages that began with the 1994 law p 1705).

[10]The environment and issue relating to sustainability is the contemporary question of this age. As an oil producing nation, the exploration in Nigeria impact negatively on the environment. The Nigeria environment is in danger, having been degraded by human activities especially in the oil sector of the economy. Economic activities are not carried out in an environmentally sustainable manner and with adequate attention and concern for the environment. The quest for economic development and the bye-products of economic growth cause cumulative stress on the environment thereby resulting in environmental degradation. Survival on the earth now depends more on the ability to restore the balance between the biosphere and the ecosystem. If necessary, measures are not taken to reduce environmental degradation and other unwholesome practices which threaten the health of the environment, calamity will be inevitable. The increasing rate of environmental degradation taking place the world over and particularly in Nigeria has generated more concern for the sustainability of the environment. Nigeria aspires to be among the best 20 economic of the worlds through her vision 20-20-20. This aspiration cannot be achieved without a stable and sustainable environment. The need to reconcile economic development with protection of the environment is expressed in the concept of sustainable development which obliges man to take a second look at the environmental consequences of his economic activities. It has become necessary to search for ways of accomplishing economic growth without jeopardizing the environment on which that growth depends and to reconcile economic and environmental protection in a sustainable manner. One of the most significant movements of this age is therefore how to effectively preserve and maintain the purity of the environment and thereby reduce environmental degradation to enhance the base of economic productivity. Improving global efficiency in consumption and production and preventing economic growth from resulting in environmental degradation is one of the sustainable development goals currently being worked on at the global level in order to ensure sustained, inclusive and sustainable economic growth, full of productive employment and work for all. That makes the search for legal framework for sustainable environmental governance in Nigeria imperative.

making it paramount for the legal regimes in place to be enforced and further strengthened to forestall these violations thereby making our environment safer. It may be debated whether humans can live without oil or not, but it is most times agreed that we are heavily dependent on it in this modern world and will find it hard to live without it. If we continue to use oil in our everyday lives, we must make sure that we use it efficiently. This we can do by trying to ensure that we minimise the negative effects of oil in our environment in order to expel all the negative repercussions. In the United Kingdom, the pipes used for transportation of crude are of such a high quality that there is yet no reported case of oil spillage emanating from the pipeline networks. This is unlike the case in Nigeria where the NOSDRA was only enacted in 2006, more than 50 years after oil and gas exploration and production commenced. The pipes used in Nigeria for the pipeline networks are also of very low quality hence many have been corroded already. The United Kingdom also maintains the laudable practice of writing the provisions of international conventions to which it is signatory into its national legislations. Non vessel oil spills are also very rare as is the case with Canada; this is unlike the situation in Nigeria where even extant legislations in the oil gas sector do not concern them with the issue of pollution. Canada has both the infrastructure and training required to respond to an oil spill. Gas flaring is banned in Canada. The various Acts have established specialized bodies for their administration. In Nigeria, there are no adequate infrastructures for the control of oil pollution and gas flaring is still the rule rather than the exception. Institutional capacity for the administration of extant laws is also weak. In Canada it is the Federal Agency that is responsible for ensuring that appropriate reporting, surveillance and response mechanism are in place to deal effectively with environmental emergencies. They coordinate the efforts of government and industry in their response to environmental emergencies and advise them on the scene commander and the Federal Monitoring Officer of the Canadian Coast Guard on environmental priorities and response strategies. Responsibilities for environmental protection are complimentary and clearly defined. There are no overlaps in functions or conflict between the agencies that will work to sustain the environmental protection efforts. This is unlike the case in Nigeria where Directorate of Petroleum Resources (DPR), National Environmental Standards Regulation and Enforcement Agency (NESREA) and National Oil Spill Detection and Response Agency (NOSDRA) are struggling for roles and contradicting their various efforts. Every oil spill in Canada which affects an appreciable area of land, water and air can lead to prosecution under the Canadian Environmental Protection Act, the Migratory Birds Convention Act, the fisheries Act and/or the Canadian Shipping Act. In addition to fines, a polluter may also be expected to foot the costs of remediation. Most oil spills in Nigeria go unpunished as operators quickly avail themselves of the avalanche of available defences.

Canada has a detailed and substantial legal framework for the control of oil and gas pollution. It is an environment friendly developed economy and does not permit the exploration and exploitation of oil and gas resources at the expense of the natural environment and biodiversity. It is among the few countries that approach petroleum activities from the standpoint of sustainable development. This is unlike Nigeria where pipelines crisscross the mangrove swamp forests and regularly spill oil into such forests wiping out large tracts of them without any body batting an eyelid. The culture of sustainable development is so much imbibed by all that even companies willingly give up mining rights and concessions to assist in the consolidation of the natural environment by the creation of specially protected areas. The United States can therefore be said to have an array of mutually complementing legislations for the prevention and control of oil and gas pollution. Its National Oil Contingency Plans thrive on the existing legislations such that there is a harmony between law and implementation. The United State designates the Environmental Protection Agency (EPA) as the lead agency for inland waters and land-based oil spills while the United State Coastal Guards (USCG) is the lead agency for coastal and deep-water port oil spills. In summary, though the United State of America has the potential threats for devastating oil spills in view of the large size of its oil industry; it has a sophisticated and effective legal framework to meet these challenges. The 2011 regulations made pursuant to the NOSDRA are patterned after the United States model of oil pollution response mechanism. It is however doubtful whether Nigeria possesses the trained personnel and equipment for the implementation of the regulations.

United Kingdom

Liability for oil spills with the other, the operator on the 'polluter pays' basis with unlimited liability for costs associated with pollution and clean up, there is a substantial[11]regulatory regime involving many government bodies for offshore installation, most of which are located in the North Sea[12], oil pollution, primary responsibility rests with the Marine and Coastguard Agency[13]. Special rules have been imposed for pollution that is caused by an offshore installation by the Offshore Pollution Liability (OPOL) Agreement of 1975. The OPOL agreement was introduced as an interim measure during the negotiation phase of the convention of civil liability for oil

[11]The United Kingdom used to be a large exporter of oil until 1999 when oil production began to decline as a result of the exhaustion of its well-known deposits and shifts to more areas with higher cost of production. Ownership of petroleum resources in the United Kingdom is vested in the crown and thus shares the dominical mode of ownership with Nigeria. The United Kingdom has a long history of legislation in the area of environmental protection from oil pollution and has an array of legislations in the area. They include the, Petroleum (Production) Act, 1934; Prevention of Oil Pollution Act, 1971;

[12] Regional Environmental Emergency Team, Atlantic Region Contingency Plan for Environmental Emergency, (1999)

[13] Journal of Law, Policy and Globalization www.iiste.orgISSN 2224-3240 (Paper) ISSN 2224-3259 (Online)Vol.31, 2014

pollution damage resulting from exploration of seabed mineral resources. Negotiation with this convention was ultimately unsuccessful and it was never ratified.[14] However, the UK considered the OPOL agreement to be a satisfactory means of providing for a strict liability regime in case an operator should default on providing the clean-up costs associated with an incident.[15]

The aims of OPOL are:

A. To provide an orderly means for the expeditious settlement of claims arising out of an escape or discharged of oil from offshore exploration and production operation;
B. To encourage immediate, remediate remedial action by the parties;
C. To ensure the financial responsibility of the parties to meet their obligations;
D. To provide a mechanism for ensuring that claims are met up to the maximum liability under OPOL
E. To avoid complicated jurisdiction problems

Claimants under OPOL include public authorities who can make a claim for any remedial measure taken to prevent, mitigate or eliminate pollution damage or to remove or neutralize the oil following an escape or discharged.' Anyone damaged by pollution from the oil spills may also file a claim for compensation if they have suffered 'direct loss or damage caused by contamination.[16]'

There is expectation to the operation of strict liability, which includes if the incident of pollution is a result of war, hostilities,[17] an expectation natural phenomenon, an act or omission of a claimant or a third party that intended to cause the damage negligence or wrongful acts from the state or authority.[18]

Canada

Canada is the world's sixth largest producer of petroleum and the largest supplier of crude oil import to the United States.[19] Offshore drilling in Canada[20] is regulated by the federal government on the west coast and in the arctic and by joint federal provincial bodies off the coasts of Newfoundland and Nova Scotia. Safety standard,[21] liability, limits on liability where there is no illegality or negligence and punishment are established by law.[22] Responsibilities for responding to oil spills are shared by many federal and provincial agencies[23] The Canada Oil and Gas Operation Act[24] (COGOA) generally prohibit oil spills and require all spills to be reported. persons who are responsible for an oil spills are required to 'take all reasonable measure consistent with safety[25] and the

[14] Pollution Prevention and Control Act, 1992; Offshore Installations (Emergency Procedures) Regulations, 1976;

[15] Petroleum (Production) Act, 1934; Prevention of Oil Pollution Act, 1971;

[16]Pollution Prevention and Control Act, 1992; Offshore Installations (Emergency Procedures) Regulations, 1976; Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 etc. The Department of Trade and Industry is the lead regulator for discharges and gaseous emissions outside the territorial waters of the United Kingdom. The Environmental Agency or the Scottish Protection Agency is in charge of regulations for waters within three nautical miles' zone. There are also other bodies for specific environmental issues in the oil and gas industry. The DTI in conjunction with other specialized agencies has the responsibility of measuring environmental performance in the oil industry. It is mandatory requirement for every applicant for a license to include a statement of its environmental policy which must also state the mitigating measures the prospective licensee is to adopt to minimize risk to the environment. A proposed plan of compliance with the condition to be imposed by the Department of Trade and Industry (DTI) is also included in the application. It is the Environmental Protection Program marshaled by the operator in its application that will determine the outcome of the application for license there are no such conditions attached to the grant of an oil mining lease or license in Nigeria. The United Kingdom anchors the very success of its exploratory and production activities in the oil and gas industry on the compatibility of such activities with the environment. There is a high level of awareness that oil drilling activities can only be of value to the society where they conduce with environmental balance and are not a threat to the environment. This situation is exactly the opposite in Nigeria where the Niger-Delta environment is being mindlessly devastated to the extent that if nothing is done to ameliorate the situation, the terrain could become uninhabitable in the next 30 years.

[17]Merchant Shipping (Oil Pollution Preparedness, Response and C-operation Convention) Regulations, 1998 etc

[18] If it resulted from compliances with instruction or conditions from the licensing states

[19]Canada has a largely privatized oil industry and is one of the best countries in terms of prevention and control of oil and gas pollution. In many years of oil exploration and exploitation in Canada, very few spills have been recorded. Apart from accidents involving oil tankers, very few incidents of spill have been reported. Most of the spill incidents are isolated. One of such incidents was that which occurred when a construction company accidentally punctured a pipeline in Burnaby, British Colombia and certain quantity of oil escaped shooting plumes of 20 metres into the air. Both the operators and the civil society in Canada are environment friendly. The legislations governing oil spills, individual oil pollution generating accidents and environmental emergencies in Canada are:(1) The Canadian Shipping Act; The Marine Liability Act; The Fisheries Act; The Migratory Birds Convention Act; The Canadian Environmental Act; The Transportation and Dangerous Goods Act; Canada Oil and Gas Convention Act;

[20] Ibid

[21]Canadian Wildlife Service, Environmental Conservative Branch, Environment Canada Atlantic Region, "Oil Spill Response Plan" August 1999

[22]Fagbohun, O. The Law of Oil Pollution and Environmental Restoration, (Lagos: Odade Publishers, 2010) .188

[24] The Marine Liability Act

[25]The Environmental era legislations were mainly focused on general environmental issues

protection of the environment to prevent any further spill to repair or remedy any condition resulting from the spill and to reduce or mitigate any danger to life, health, property or the government that result or may reasonably be expected to result from spill. 'The chief conservation officer in the National Energy Board (NEB) can step in to take any action that he deems necessary. This official can also bring in other parties to do work that are not being done by the polluter.[26] The costs are to be borne by the polluter and constitute a debt owed to the government. Third parties hired by the government are not liable for any damages unless they act unreasonably. The regulatory petroleum regimes in Canada include the following:[27]

A. The National Energy Board-Canada's National Energy Board (NEB) has broad responsibilities in the field of oil and gas exploration. Its responsibilities include the regulation of oil and gas exploration, development and production, enhancing worker safety and protecting the environment[28].
B. The Department of Indian and Northern Affairs (INAC) – INAC works in partnership with northern and aboriginal government and people govern the allocation of crown lands to the private sector for oil and gas exploration; develop the regulatory environment set and collect royalties and approve benefit plans before development takes in a given area.
C. Environment Canada–Environment Canada is Canada federal environment protection agency it plays a role in preventing and addressing oil spills.
D. Canadian Coast Guard – The Canadian coast guard is an agency in the department of fisheries and ocean. The coast guard has the primary responsibility for managing and cleaning up oil spills from tanker and ships.
E. Canadian Wildlife Service – The Canadian wildlife service coordinate the rescue and treatment of migratory birds and endangered species the service also assesses damaged caused by oil spills to wildlife and habitants to help determine whether liable parties should be prosecuted and the costs that they should bear. Studies are also conducted to determine the status of recovery efforts.[29]
F. Canada – Newfoundland Offshore Petroleum Board – The Canada Newfoundland and Labrador offshore petroleum board has the responsibility to ensure that offshore oil and gas industrial activities proceed in an environmentally acceptable manner.[30]

United States

The recent Gulf of Mexico oil spills flowed undiminished for three months in 2010 due to an explosion of deep-water horizon drilling rig[31] that was operated by BP (British petroleum).[32] The explosion killed eleven workers and injured sixteen others; another ninety–nine people survived without serious physical injuries. The effect of the explosion was that the deep-water horizon began to sink which started the offshore oil spills in the Gulf of Mexico. Thousands of dead invertebrates like starfish and coral were found. Similarly, many dolphin offspring were found dead along the gulf coast. Oyster beds were also devastated by the oil spills and it is said that it could take ten years for the population to reach its former size this incident has been referred to as the second largest environment disaster in the US.[33] Prior to the 2010 Gulf spills, the most notable example was the 1989 Exxon Valdez spills, which released approximately 11 million gallons (260,000 barrels) of crude oil into Alsakan waters. According to BBC news, the oil killed over 250,00 seabirds, 2,800 sea otters,250 bald eagles[34], 300 harbor seals, and 22 killer whales as well as countless herring and salmon[35]. The Exxon Valdez spills played a large role in highlighting the need for stronger legislation and spurred congress to enact comprehensive oil spills legislation, resulting in the Oil Pollution Act (OPA) which was signed into law in august 1990. This law expanded and clarified the authority of the federal government and created new oil spills prevention and preparedness

[26]Canada, Burnaby, Burnaby Oil, Spill, Update> accessed 12/09/2011.Journal of Law, Policy and Globalization www.iiste.org access on the 16/04/2017

[27]A reported 10.6 million gallons was spilled into the Atlantic Ocean, 563-6441cm S.E. of Cape Race, Newfound and in an incident inviting a ship known as "The Athenian Voltic"

[28] Canada Oil and Gas Convention Act;

[29]Www Canada "Burnaby Oil Spill Update" Verdena- 19, Human Rights <http//versenac19, word press, com/200/07125wwwf. ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online) Vol.31, 2014, access on the 16/05/2017

[30] The Canadian Shipping Act

[31]The legal framework for the control of oil and gas pollution in the United States is founded on three laws. These are the Oil Pollution Act (OPA) of 1990, the Comprehensive Environmental Responses, Compensation and Liability Act (CERCLA), 1980 and the Water Control Act of 1972 otherwise known as the Clean Water Act. In addition to the above Acts is the National Oil and Hazardous Substances Contingency Plan issued by the United States Environmental Protection Agency. The OPA is administered by the United States Guard and provides for liability for oil pollution damage occurring in the navigable waters and the adjoining shoreline or the exclusive economic zone of the United States. The Act also established the Oil Pollution Fund for responses and payment of claims where an operator is unable to furnish adequate funds for the purpose. The Act also declares the content of the National Contingency Plan.

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[33]Apart from agencies of government, industry associations such as the UKOOA, IADC and OCA work with the DTI to determine the environmental performance of operators

[34] Section 4201, OPA

[35] Section 1012 OPA

requirements.[36] The OPA improved the nation's ability to prevent and respond to oil spills by establishing provisions that expand the federal government ability and provide the money and resources necessary to respond to oil spill.[37] The OPA also created the national oil spill liability trust fund which is available to provide up to one billion dollars per spill incident.[38]The government framework for oil spill in the United State remains a combination of federal, state, and international authorities unlike the Nigeria system where the control of mineral resource is highly centralized. Within this framework, several federal agencies have the authority to implement oil spills regulations.

5. Prospects of Oil Exploration in the Niger Delta Region

The major prospects for petroleum exploration and environmental sustainability is predicated on the sincerity of the various players in the sector, the International Oil Companies, Nigeria Government and the various Host Communities ability to adhere to conflict resolution and positive change in the Niger Delta region rest in the following factors identifiable within the framework of fortuitous circumstances still within the control of the parties to this conflict: First is the fact that the ethnic groups of the Niger Delta are really not yet at war with the state. The warring militants are basically Ijaws, fighting for goals that are not really congruent with the Niger Delta problem, and criminal cult gangs, both of which are merely exploiting the economic and socio-political crisis for private and primordial ends. What this means is that the Niger Delta struggle is yet to assume a really violent coloration or involve an armed struggle by the people of the region against the state. Second, is that all ethnic nationalities in the region favour dialogue and negotiation as a means of resolution of this conflict, and will be willing to shift grounds on some issues like total resource control, at least in the short run. This leaves room for negotiation and a very important window of opportunity for conflict resolution. Third is the proposal of government to create at the federal level, a Niger Delta ministry to cater exclusively for the people of the region. This proposal seems to have been received with an open mind by the peoples of the Niger Delta and does present very good prospects for mutual understanding and reconciliation. Fourth is that there are positive signs that the oil companies in the region, are beginning to embrace the doctrine of Corporate Social Responsibility, and are becoming more positively engaged with some of the communities in their areas of operation. The just concluded sittings of the River State Truth and Reconciliation panel did provide a much needed window of opportunity for frank and open public discussions on the issues involved between the oil companies and their hosts and is expected to yield positive results. Fifth is that, all the governors of the region had convened a South-South Governors forum which met in Yenagoa on Friday the 21st of November 2008, and came out with a resolution to deal collectively with the criminal cult gangs operating in the region (Nigerian Tribune, 2008). This is a giant step in the right direction. Sixth is that, there is at last some signs of serious effort on the part of government to address the problem of gas flaring in some parts of the region. The 5.9 billion USD Escravos gas to liquid project (EGTL) in Delta state is the first of its kind in the region. The essence of the EGTL is to stop gas flaring (The Nation, 2008). This will go a long way not only to assuage community fears and anxiety, but also provide jobs for unemployed youths of the region. Seventh is that the country's constitution does not set a ceiling for the derivation. The current 13% being paid to the oil producing states is the constitutionally prescribed minimum. It does not therefore require a constitutional amendment to review the formula upwards to the 50% being demanded by the region. This is feasible and should be considered by government. Eight is the window of opportunity provided by the proposed 15-year Niger Delta regional development plan. If the Seven-point agenda of the Yar-Adua administration is faithfully implemented within the context of this plan, it will indeed represent a beacon of hope for the resolution of the Niger Delta crisis in a relatively short time.

6. Conclusion and Recommendations

Laws must be signed and drafted with care to achieve results, and they must be evaluated carefully afterwards to see if they have actually achieved the desired results. For sustainability laws, the availability of credible and widely applicable assessment tools and institutions is especially important. It is true that globalization is the major cause of our suffering, it is also correct to say that we suffer more than the gains of globalization. We have varieties

[36]The CERCLA is also known as the "superfund." It makes provisions for the clean-up of sites contaminated by spills and hazardous substances. It provides liability for clean ups and clean up procedures that protect humans and the environment. The Act empowers the president to clean up hazardous substance's sites either directly or through a responsible party by enforcement actions. Under the Act, the trustee for the environment may recover Apart from agencies of government, industry associations such as the UKOOA, IADC and OCA work with the DTI to determine the environmental performance of operators

[37]The CERLCA operates retroactively and can be used against those responsible for hazardous wastes before its enactment. The Clean Water Act aims at maintaining and restoring the chemical, physical and biological integrity of the waters of the United States and to apply the best available and economically achievable technology to maintain waters quality so as to ensure protection of fish, shellfish, wildlife and human recreation activities. In a nutshell, it aims at preventing the pollution of the waters of the United States, and gas activities are always hazardous in nature and their readiness to legally address the situation. This is unlike in Nigeria where all the preoccupation of government is on how to maximize oil output with little or no attention being paid to the damaging effects of oil production on the environment.

[38]Restoration, Natural Resources Damage Assessment and Restoration Program 'Laws, Regulations and Authorizing Statutes" at <http//restoration.doc.gov/laws.html accessed 19-02-2012

of laws protecting our environment, these laws are sufficient to sustain us in a friendly environment. Therefore, we must continue to strive by abiding and promoting these environmental laws, implementing equally enforcing those laws. We owe a duty to ourselves, our children both born and unborn to keep the environment safe, by doing everything our capacity to minimize pollution, and saving the flora and fauna in our environmental. The following measures may be helpful:

1. Environmental regulatory laws in Nigeria should be reviewed to provide for stiffer sanctions that would effectively deter intending environmental polluters
2. There should be a collection of environmental data on activities threatening the environment and also data on environmental pollution within the country so that the government will know when its laws are efficient and when they are not enough and to also enable government analyze the extent of harm done to the environment.
3. Since environmental pollution is a very serious issue of concern and affects both young and old, courses should be introduced in primary, secondary school and the various universities in Nigeria as a compulsory subject with the aim of enlightening pupils about environment, its pollution and effects.
4. Our government should put in more effort in enforcing these numerous environmental laws by making funds available for enforcement, closing its eyes against corruption, managing polluted environments with the various taxes paid, embarking on campaign and environmental awareness programs, providing more securities at our country borders.
5. The court should wake up from their slumber and tackle environmental cases with undue delay or undue regards to technicalities.
6. The government should set up environmental court to enable easy access and quick dispensation of environmental matters on its merits.
7. Courts should be ready to award deserving compensation to victims of environmental pollution.