

# CHAPTER ONE

## INTRODUCTION

### 1.1. BACKGROUND OF THE STUDY

Land constitutes one of the most essential assets for human existence, serving not only as a means for sustenance and shelter but also as a representation of wealth, power, and identity. In Nigeria, where land acts as the foundation for industrial and agricultural development, its utilization often creates a dichotomy between economic advancement and environmental sustainability. This inherent tension forms the basis of this study, which explores the legal implications of land use for industrial purposes within the intersecting realms of property rights and environmental law.

The concept of property rights is as old as civilization itself, rooted in the maxim *dominium est jus utendi et abutendi re sua, quatenus juris ratio patitur*<sup>1</sup>. This principle underscores the authority of individuals or corporations to own and utilize land. In a developing economy such as Nigeria's, property rights are pivotal to industrialization, enabling businesses to establish factories, refineries, and other infrastructure vital for economic growth. However, the exercise of property rights does not occur in isolation, as every parcel of land belongs to a more extensive ecological system. Industrial activities, such as oil drilling, mining, and manufacturing, often result in land degradation, deforestation, and pollution. This presents a significant challenge because while property owners possess the freedom to exploit their land, this right is constrained by the maxim *sic utere tuo ut alienum non laedas*<sup>2</sup>.

The industrial landscape of Nigeria illustrates the intersection of property rights and environmental concerns. For instance, the oil industry in the Niger Delta has had profound repercussions for the environment. Land allocated for oil exploration has experienced extensive pollution resulting from oil spills, gas flaring, and chemical discharges, which have led to

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<sup>1</sup> Ownership is the right to use and abuse one's property within the bounds of the law.

<sup>2</sup> Use your property in such a way that you do not harm others.

ecological devastation and the displacement of local communities<sup>3</sup>. This reality paints a grim picture of the risks posed by unregulated industrial land use, jeopardizing environmental integrity and human rights. Additionally, urban centres such as Lagos confront separate but equally pressing challenges. The rapid industrialization and urbanization of land have resulted in issues such as flooding, waste mismanagement, and air pollution<sup>4</sup>. These scenarios raise critical questions: To what extent should environmental law govern industrial land use? How can Nigeria reconcile economic growth with ecological preservation?

The historical evolution of property rights and environmental law in Nigeria further highlights the complexities of this issue. The Land Use Act, a fundamental component of Nigerian property law, vests ownership of land in the State while granting individuals rights of occupancy. This centralized approach aimed to ensure equitable access to land but has inadvertently generated difficulties in balancing property rights with environmental stewardship. Similarly, Nigeria's environmental legislation, such as the Environmental Impact Assessment Act and the National Environmental Standards and Regulations Enforcement Agency Act, seeks to mitigate the adverse effects of industrial land use. However, deficiencies in enforcement and conflicting priorities often undermine these efforts.

This dilemma is not exclusive to Nigeria. Globally, the tension between property rights and environmental law has initiated debates regarding sustainable development. In countries such as Brazil, for instance, deforestation in the Amazon rainforest<sup>5</sup> reflects similar struggles concerning land use for industrial and agricultural purposes. By situating Nigeria's experience

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<sup>3</sup> Ordinioha B and Brisibe S, "The Human Health Implications of Crude Oil Spills in the Niger Delta, Nigeria: An Interpretation of Published Studies" (2013) 54 *Nigerian Medical Journal* 10 <<https://doi.org/10.4103/0300-1652.108887>> accessed January 7, 2025.

<sup>4</sup> Collins Odigie Ojichanor, "Lagos Chokes on Its Own Waste: Flood Crisis a Tale of Neglect, Corruption and Environmental Degradation" (*LightRay! Media*, July 9, 2024) <<https://lightraymedia.org/2024/07/09/lagos-chokes-on-its-own-waste-flood-crisis-a-tale-of-neglect-corruption-and-environmental-degradation>> accessed January 7, 2025.

<sup>5</sup> "Deforestation in the Amazon Rainforest: Causes, Effects, Solutions" (*DGB Group*, December 9, 2024) <<https://www.green.earth/blog/deforestation-in-the-amazon-rainforest-causes-effects-solutions>> accessed January 7, 2025.

within this global context, this study aims to extract valuable insights and propose solutions tailored to the Nigerian legal framework.

Comprehending the historical and contemporary dynamics of land use in Nigeria is essential for addressing broader questions of environmental justice, economic development, and legal reform. This study's emphasis on the intersection of property rights and environmental law highlights the urgent necessity for a balanced approach that respects both individual rights and collective responsibilities. The background of this study sets the stage for an in-depth analysis of how Nigeria's legal framework addresses the competing demands of industrial development and environmental protection. By exploring historical precedents, contemporary challenges, and global parallels, this study aims to contribute to a nuanced understanding of this critical issue. Through legal doctrines, case studies, and practical examples, it seeks to illuminate pathways toward a more sustainable and equitable utilization of land in Nigeria.

## **1.2. STATEMENT OF THE PROBLEM**

The tension between the exercise of property rights and the enforcement of environmental laws has emerged as one of the most contentious legal and policy issues in Nigeria. Central to this conflict is the inquiry into how the right to own and utilize land for industrial purposes can coexist harmoniously with the imperative to safeguard the environment and promote public welfare. Industrial land use is essential for economic development, as it creates jobs, stimulates urbanization, and attracts foreign investment. In Nigeria, sectors such as oil exploration, manufacturing, and mining have made significant contributions to the country's gross domestic product (GDP). However, this economic advancement often incurs a substantial toll on the environment and local communities. Unregulated or inadequately

regulated land use for industrial activities can result in pollution, deforestation, biodiversity loss, and the degradation of ecosystems.

A poignant illustration of the environmental consequences of unchecked industrial activities can be found in the oil-rich Niger Delta region. Oil spills, gas flaring, and improper waste disposal have rendered vast tracts of land uninhabitable, disrupted livelihoods, and induced severe health issues for local populations. These detrimental effects raise critical questions regarding the sufficiency of existing legal frameworks in addressing the environmental consequences associated with industrial land use. The complexity of the problem is further exacerbated by Nigeria's legal and institutional structures, which often struggles to strike a balance between the protection of property rights and the enforcement of environmental laws. The Land Use Act vests ownership of all land in the State<sup>6</sup>, with individuals and corporations granted rights of occupancy<sup>7</sup>. While this system was designed to ensure equitable access to land, it has inadvertently fostered ambiguities and conflicts in land administration, particularly concerning industrial land use.

In addition, Nigeria's environmental laws, such as the Environmental Impact Assessment Act and the National Environmental Standards and Regulations Enforcement Agency Act, aim to regulate industrial practices to mitigate environmental harm. However, these laws often suffer from weak enforcement, overlapping jurisdictions, and corruption. Consequently, the legal regime, which may appear robust in theory, proves ineffectual in practice, leaving communities vulnerable to environmental degradation. The challenge at hand is not solely legal or technical; it is fundamentally human. Communities that have been displaced due to industrial activities frequently forfeit their ancestral lands, cultural heritage, and means of subsistence. In the Niger Delta, fishing and farming communities have witnessed their livelihoods devastated by oil spills, with little to no compensation provided. The legal

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<sup>6</sup> Section 1 of the Land Use Act, 1978.

<sup>7</sup> Section 5 (1) (a) of the Land Use Act, 1978.

*maxim ubi jus ibi remedium*<sup>8</sup> appears hollow in these situations, as affected individuals and communities struggle to secure justice within a system that often prioritizes economic interests over environmental and human rights.

This issue is not confined to Nigeria; similar challenges in reconciling property rights with environmental protection are observed across the globe. For instance, the United States has contended with debates surrounding eminent domain and the regulation of private land for conservation purposes<sup>9</sup>. Furthermore, Brazil's on-going struggle with deforestation in the Amazon rainforest reflects the global challenge of balancing development with environmental sustainability. However, while global parallels offer valuable insights, Nigeria's unique legal and socio-economic context necessitates tailored and homegrown solutions.

The issue presented is both urgent and intricate, requiring a nuanced understanding of legal principles, environmental realities, and socio-economic dynamics. This study intends to elucidate these complexities, providing an analytical framework for addressing the legal implications of land use for industrial purposes in Nigeria. By doing so, it aims to contribute to a more equitable and sustainable reconciliation between property rights and environmental stewardship.

### **1.3. AIM AND OBJECTIVES OF THE STUDY**

The primary aim of this study is to investigate the legal implications of land use for industrial purposes in Nigeria, with a particular focus on the intersection of property rights and environmental law and to also explore how the legal framework can effectively balance economic development with environmental preservation while safeguarding individual and communal rights. The objectives of the study include:

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<sup>8</sup> Where there is a right, there is a remedy.

<sup>9</sup> "History of the Federal Use of Eminent Domain" Environment and Natural Resources Division, US Department of Justice (January 30, 2024) <<https://www.justice.gov/enrd/condemnation/land-acquisition-section/history-federal-use-eminent-domain>> accessed January 7, 2025.

1. To examine the legal definition, protection, and exercise of property rights within Nigerian law, particularly in the context of industrial land use.
2. To critically assess the existing legal and institutional frameworks that govern land use for industrial purposes in Nigeria and to evaluate their effectiveness in addressing the environmental repercussions of industrial activities.
3. To examine the enforcement of environmental laws in Nigeria and to identify challenges such as inadequate enforcement, overlapping mandates, and corruption, which undermine the effectiveness of these laws.
4. To analyse real-world instances of industrial land use in Nigeria, including oil exploration in the Niger Delta and industrial activities in Lagos and to illustrate the consequences of unregulated land use, including environmental degradation and social displacement.
5. To recommend how to enhance Nigeria's legal framework and to emphasize sustainable development which align with international environmental standards, and clarify the rights and responsibilities of property owners, corporations, and the government.

#### **1.4. SCOPE AND LIMITATIONS OF THE STUDY**

The present study investigates the legal implications of land use for industrial purposes in Nigeria, specifically with a particular focus on the intersection of property rights and environmental law. Given the extensive nature of this subject, it is imperative to delineate the parameters within which this research is conducted. Such delineation ensures that the study remains concentrated and manageable while effectively addressing the most salient issues. This research primarily centres on Nigeria, a nation in which land serves both as an economic asset and a cultural heritage. The examination includes an analysis of Nigerian legislation, notably the Land Use Act and evaluates the extent to which these laws govern industrial land use within

the nation's distinctive socio-economic and environmental context. While the study draws comparisons with global practices, the analysis remains anchored in Nigeria's specific legal framework. The core theme of the study revolves around the interplay between property rights and environmental law as related to industrial land use. The research encompasses both historical and contemporary perspectives, tracing the evolution of property rights and environmental law in Nigeria to provide essential context, while also focusing on recent and on-going cases of industrial land use, particularly in the Niger Delta and Lagos.

While the study aims to deliver a comprehensive analysis, it is subject to certain limitations. It is confined to the Nigerian legal framework and does not conduct an exhaustive examination of international laws or practices. Although the research references global comparisons to highlight best practices, it does not intend to provide a detailed exploration of foreign legal systems. The study prioritizes key industrial activities that significantly influence land use in Nigeria, such as oil exploration, mining, and manufacturing, and does not engage with all potential forms of land use, such as agricultural or residential development, unless they intersect with industrial purposes. While the environmental implications of industrial land use are examined, the study does not adopt a purely scientific or technical perspective. Rather, it focuses on the legal dimensions of environmental protection, relying on existing studies and reports as sources for scientific and empirical data. This research depends on publicly accessible statutes, case law, and secondary literature. Challenges such as limited access to confidential government records, proprietary industrial data, or unpublished environmental impact assessments may restrict the analytical depth.

Notwithstanding these limitations, the study endeavours to maintain a balance between breadth and depth. By concentrating on key themes and case studies, it seeks to offer meaningful insights regarding the legal and environmental challenges associated with

industrial land use in Nigeria. In recognition of the legal maxim *summum jus, summa injuria*<sup>10</sup>, the study advocates for a pragmatic approach, acknowledging its constraints while striving for analytical rigor.

## **1.5. SIGNIFICANCE OF THE STUDY**

The examination of the relationship between property rights and environmental law, particularly in relation to industrial land use in Nigeria, holds significant importance. This research addresses a multifaceted issue with far-reaching implications for legal theory, policy formulation, environmental sustainability, economic development, and social justice. By elucidating the intricacies of this topic, the study aims to make a substantial contribution to the discourse on harmonizing individual rights with collective responsibilities. From a jurisprudential standpoint, this study enriches the ongoing dialogue regarding the reconciliation of property rights and environmental law. It challenges the conventional understanding of ownership encapsulated in the maxim *dominium est jus utendi et abutendi re sua*<sup>11</sup> by critically examining the limitations of this right in light of environmental obligations. The study's thorough analysis of Nigerian statutes, case law, and legal doctrines offers a comprehensive framework for understanding the evolution of law in response to competing interests.

## **1.6. RESEARCH METHODOLOGY**

The methodology employed in this study reflects its doctrinal nature, relying on an analytical and interpretative approach to investigate the intersection of property rights and environmental law specifically within the context of industrial land use in Nigeria.

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<sup>10</sup> Extreme law is extreme injustice.

<sup>11</sup> Ownership is the right to use and abuse one's property.

## **1.7. CHAPTER ANALYSIS**

The Chapter Analysis serves as a comprehensive roadmap for the thesis, outlining the contributions of each chapter to the overarching exploration of the intersection between property rights and environmental law in Nigeria. This section provides a detailed breakdown of the thematic progression, linking the various components to the central objective of examining the legal implications of land use for industrial purposes.

The first chapter establishes the foundational context for the study by addressing its background, problem statement, objectives, scope, methodology, and significance. It introduces the inherent tension between private land ownership and environmental regulations in Nigeria, highlighting the socio-economic and legal challenges associated with industrial land use. This chapter formulates the research questions and justifies the doctrinal methodology employed to analyse statutes, case law, and regulatory frameworks.

The second chapter lays the theoretical groundwork for the study. It commences with definitions of key concepts, such as property rights, environmental law, and industrial land use, and explores their interrelationships. The chapter further examines the historical evolution of these concepts within the Nigerian context and reviews existing literature to identify prevailing gaps. Definitions and distinctions are provided, encompassing categories of property rights such as communal, private, and State-owned property, as well as principles of environmental law, including precautionary measures and the polluter pays principle. Additionally, the chapter draws upon property theories, such as Locke's theory of ownership, alongside environmental doctrines like public trust and eminent domain. A critical analysis of scholarly works is conducted, highlighting the limited research surrounding the legal implications of industrial land use in Nigeria.

The third chapter evaluates the legal and institutional mechanisms governing property rights and environmental law in Nigeria. It undertakes a critical examination of key statutes,

including the Land Use Act, Environmental Impact Assessment Act, and the NESREA Act, as well as the roles of relevant regulatory agencies. This chapter discusses the inconsistencies and enforcement challenges inherent within the legal framework, such as the overlapping jurisdictions between Federal and State agencies that often impede effective land use regulation. Resource constraints, corruption, and low public awareness are highlighted as barriers to effective governance.

The fourth chapter broadens the focus of the study to include socio-economic, environmental, cultural, and political dimensions of industrial land use. It also conducts a comparative analysis, drawing insights from global practices and regional perspectives. The examination reveals how industrial land use exacerbates inequality, with marginalized communities frequently experiencing disproportionate environmental harm. The chapter explores the impacts of industrialization on biodiversity and climate change, linking these issues to the United Nations' Sustainable Development Goals (SDGs). Furthermore, it reviews practices in other jurisdictions, such as Brazil's deforestation policies and the United States' eminent domain system, to glean applicable lessons for Nigeria.

The fifth and concluding chapter synthesizes the findings of the study and offers actionable recommendations for legal reforms and policy enhancements. It identifies areas for future research, ensuring that the study contributes to ongoing efforts aimed at balancing property rights with environmental law. Proposed measures include the stricter enforcement of Environmental Impact Assessments (EIAs) and the promotion of increased public participation. Moreover, it advocates for further investigation into emerging issues, such as climate change adaptation within land use policies.

## **CHAPTER TWO**

### **CONCEPTUAL CLARIFICATIONS, THEORETICAL AND HISTORICAL FOUNDATION, LITERATURE REVIEW**

Land has always been a double-edged sword in human civilization, both a source of wealth and a source of conflict. In Nigeria, land transcends beyond its role as a mere geographical entity; it constitutes the foundation of economic development, a repository of cultural heritage and an essential legal construct. The intersection of industrial activities and land use gives rise to a complex web of rights, obligations, and environmental concerns. This study undertakes a thorough examination of these dimensions, establishing the conceptual, theoretical, and historical foundation necessary to appreciate the legal implications of industrial land use.

#### **2.1. CONCEPTUAL CLARIFICATIONS**

A proper understanding of property rights and environmental law necessitates the establishment of precise definitions. This study first delineates fundamental concepts such as property rights, land tenure systems, environmental justice, and industrial land use. Property rights, which are grounded in both common law and statutory frameworks, determine ownership, usage, and conditions of land possession. However, these rights are not absolute; the coexistence of public and private rights is essential to ensure that private ownership does not come at the expense of public welfare. Environmental law, on the other hand, serves as the legal boundary that limits industrial activities to circumscribe the degradation of land, air, and water. This study highlights how environmental rights are an extension of human rights, drawing parallels with constitutional provisions and international treaties like the African Charter on Human and Peoples' Rights. The often-perceived conflict between property rights

and environmental regulation is examined through real-world examples where industrial expansion collides with ecological preservation.

Property and the environment are two sides of the same coin. Every parcel of land is not merely a legal asset; it embodies economic, social, and ecological significance. While property rights grant individuals and corporations the legal authority to utilize and exploit land, environmental law serves as a vital restraint to ensure that such usage does not compromise the rights of others or future generations. This section provides an in-depth exploration of these concepts, elucidating their definitions, categories, interconnections, and implications for industrial land use in Nigeria.

### **2.1.1. DEFINITION AND NATURE OF PROPERTY RIGHTS**

At its core, property rights refer to the legal entitlements that determine how resources, particularly land, are owned, controlled, and transferred<sup>12</sup>. The maxim *dominium est jus utendi et abutendi re sua, quatenus juris ratio patitur*<sup>13</sup> illustrates the extent and boundaries of property rights. Philosophically, John Locke’s labour theory of property posits that land belongs to those who cultivate or improve it<sup>14</sup>. However, this classical notion has evolved in contemporary legal systems, which recognize that land is not merely an economic asset but also a public trust<sup>15</sup>. As a result, property rights are no longer seen as absolute but rather perceived as a bundle of rights that can be exercised, regulated, or restricted by law. In Nigeria, the Land Use Act has fundamentally reshaped property rights by vesting land ownership in the

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<sup>12</sup> “What Are Property Rights and Why Do They Matter? | P&B Lawyers” (*P&B Lawyers*) <<https://pblawyers.com.au/what-are-property-rights-and-why-are-they-important-in-property-law>> accessed February 3, 2025.

<sup>13</sup> Ownership is the right to use and even abuse property, provided it is within legal limits.

<sup>14</sup> “Theories of Property Law: Labour, Occupation and Economic” (November 6, 2023) <<https://www.lawteacher.net/free-law-essays/property-trusts/theories-property-law-9837.php#citethis>> accessed February 3, 2025.

<sup>15</sup> “Environmental Rights for the 21st Century: A Comprehensive Analysis of the Public Trust Doctrine and Rights of Nature Movement | Cardozo Law Review” <<https://cardozolawreview.com/environmental-rights-for-the-21st-century-a-comprehensive-analysis-of-the-public-trust-doctrine-and-rights-of-nature-movement/>> accessed February 3, 2025.

government<sup>16</sup> while permitting individuals and businesses to acquire rights of occupancy<sup>17</sup>. This legal framework indicates that individuals do not possess absolute ownership of land; rather, they hold rights subject to governmental discretion, rendering industrial land use contingent upon State regulation.

### **2.1.2. CATEGORIES OF PROPERTY RIGHTS**

Property rights can be classified based on ownership structure, purpose, and the nature of rights conferred. The major categories<sup>18</sup> include:

1. Private Property Rights – These rights allow individuals or corporations to own land and exclude others from its use. For example, an industrialist acquiring land to establish a factory exercises private property rights. Nevertheless, these rights are not infinite, as environmental regulations impose restrictions on harmful activities.
2. Public Property Rights – This category encompasses land owned by the government on behalf of the populace, including national parks, forests, and conservation areas. The pressure of industrialization often threatens these spaces, resulting in conflicts between economic development and environmental conservation.
3. Common Property Rights – These rights pertain to land and resources that are collectively owned and managed by a community, such as communal grazing land or fishing zones. Industrial expansion, especially mining and large-scale agriculture, frequently disrupts these communal rights, leading to displacement and adverse environmental degradation.

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<sup>16</sup> Section 1 of the Land Use Act, 1978.

<sup>17</sup> Section 5 (1) (a) of the Land Use Act, 1978.

<sup>18</sup> “Property Rights: Definition, Types & Characteristics” (*StudySmarter UK*) <<https://www.studysmarter.co.uk/explanations/microeconomics/market-efficiency/property-rights/>> accessed February 3, 2025.

4. Regulatory Property Rights – These rights emerge from legal interventions that regulate how property can be used. Zoning laws, environmental permits, and pollution control measures exemplify how property rights can be modified to serve the public interest.

The fluidity of these categories highlights that property ownership transcends mere control and encompasses responsibilities. This brings into focus the relationship between property rights and land use.

### **2.1.3. RELATIONSHIP BETWEEN PROPERTY RIGHTS AND LAND USE**

Land use is intrinsically linked to property rights. An owner’s ability to farm, build, or develop land is contingent upon the nature of their rights and the associated legal restrictions. However, conflicts frequently arise given that land functions both as a private commodity and a public asset. For instance, consider the dilemma of urban expansion: a private developer purchases land to construct an industrial estate. While the developer’s property rights allow for such use, the government may impose zoning restrictions that mandate environmental impact assessments (EIAs) prior to construction. Thus, property rights and land use are not independent entities; they are interconnected both legally and ethically. In Nigeria, the complexity of industrial land use is heightened by dual ownership systems, whereby land may be subject to both customary tenure and statutory control<sup>19</sup>. The friction between industrial interests and local landowners has incited numerous legal disputes, particularly evident in the litigation involving oil companies in the Niger Delta, where land use for oil extraction conflicts with indigenous property rights<sup>20</sup>.

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<sup>19</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>20</sup> Refworld - UNHCR’s Global Law and Policy Database, “The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria’s Oil Producing Communities” (*Refworld*, February 12, 2024) <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed February 3, 2025.

#### **2.1.4. DEFINITION AND SCOPE OF ENVIRONMENTAL LAW**

Environmental law is a body of rules, regulations, and policies that govern human interactions with the environment. Its primary aim is to prevent, mitigate, and remediate ecological harm arising from land use, industrial activities, and other economic practices<sup>21</sup>.

One key area of environmental law is pollution control, which includes regulations to manage air, water, and soil pollution. This helps limit the harmful effects of industrial and agricultural practices on ecosystems and public health. Resource conservation is another critical aspect, encompassing laws that protect natural resources such as forests, minerals, and biodiversity. These laws aim to preserve ecosystems for future generations while ensuring sustainable use. Environmental justice focuses on ensuring that vulnerable communities are not disproportionately affected by environmental degradation. This aspect addresses the need for equitable distribution of the benefits and burdens of industrial activities.

Finally, environmental law promotes sustainable development, seeking a balance between economic growth and environmental protection. It advocates for practices that support long-term development without depleting or damaging natural resources. In Nigeria, the environmental legal framework includes statutes such as the Environmental Impact Assessment Act, the National Environmental Standards and Regulatory Enforcement Agency Act, and the Petroleum Act. Each of these statutes imposes obligations on industries concerning land use and pollution control.

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<sup>21</sup> “What Is Environmental Law - And Why Does It Matter?” (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

### **2.1.5. KEY PRINCIPLES OF ENVIRONMENTAL LAW**

Several foundational principles inform the framework of environmental law<sup>22</sup>, influencing the regulation of property rights and the use of land for industrial purposes; these principles form the basis for regulatory interventions that govern industrial land use:

1. **The Precautionary Principle:** This principle advocates that prevention is preferable to remedying harm after it occurs. Industries are obligated to implement preventive measures against potential environmental damage, even in the absence of complete scientific certainty.
2. **The Polluter Pays Principle:** This principle asserts that those responsible for environmental degradation should bear the costs associated with remediation. It serves as a cornerstone of Nigeria's framework for environmental liability, particularly within the oil and gas sector.
3. **Sustainable Development:** Economic growth should not occur at the expense of environmental integrity. This principle is enshrined in Nigeria's National Environmental Policy.
4. **Intergenerational Equity:** The contemporary generation must utilise land in a manner that preserves its viability for future generations, reinforcing the notion that property rights are not absolute.

### **2.1.6. CHARACTERISTICS AND IMPACTS OF INDUSTRIAL LAND USE**

Industrial land use involves large-scale operations that are often resource-intensive and disruptive to the environment. These activities include manufacturing, such as factories and production plants, as well as mining and extraction operations like oil drilling and quarrying.

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<sup>22</sup> Dhull R, "Principles Governing Environmental Law!" (*Knowledge Steez*, February 20, 2024) <<https://knowledgesteez.com/2024/02/principles-governing-environmental-law/>> accessed February 3, 2025.

Additionally, heavy infrastructure projects like ports and highways contribute to industrial land use. The environmental impact of such activities is significant, leading to deforestation, loss of biodiversity, and soil degradation, which results in the loss of arable land. Industrial operations also contribute to water and air pollution, which can have harmful effects on local communities.

A clear example of these environmental consequences can be seen in Lagos, where industrial waste from manufacturing facilities has caused severe water contamination. This issue has sparked legal debates on the right to a clean environment, emphasizing its recognition as a fundamental human right.

### **2.1.7. INTERPLAY BETWEEN OWNERSHIP RIGHTS AND ENVIRONMENTAL REGULATIONS**

The legal framework governing industrial land use is a tug-of-war between property rights and environmental regulations. While ownership confers specific rights, those rights are subject to limitations imposed by laws intended to safeguard the environment<sup>23</sup>. The government retains the authority to rescind property rights if land use contravenes environmental standards<sup>24</sup>. Industrialists are required to obtain permits and conduct Environmental Impact Assessments (EIAs) prior to initiating land-intensive projects<sup>25</sup>. Increasingly, judicial decisions have favoured environmental rights, as exemplified by the case of *Gbemre v. Shell*,<sup>26</sup> in which oil flaring was deemed a violation of fundamental rights. In

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<sup>23</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>24</sup> Dhull R, “Principles Governing Environmental Law!” (*Knowledge Steez*, February 20, 2024) <<https://knowledgesteez.com/2024/02/principles-governing-environmental-law/>> accessed February 3, 2025.

<sup>25</sup> “What Is Environmental Law - And Why Does It Matter?” (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

<sup>26</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05

essence, property ownership is no longer a *carte blanche* to exploit land at will; it comes with legal and ethical obligations to the environment and society.

The legal framework governing industrial land use represents a complex interaction between property rights and environmental regulations. While ownership confers specific rights, these rights are subject to limitations imposed by laws intended to safeguard the environment. The government retains the authority to rescind property rights if land use contravenes established environmental standards. Industrial operators are required to secure permits and perform Environmental Impact Assessments (EIAs) prior to initiating land-intensive projects.

## **2.2. THEORETICAL FOUNDATION**

This study then explores the theoretical underpinnings of property and environmental law. It engages with classical theories, such as John Locke's labour theory of property, which justifies ownership through human effort, and contrasts it with Garrett Hardin's tragedy of the commons, which cautions against the over-exploitation of shared resources. These foundational theories lay the groundwork for understanding the legal balancing act required when private industrial interests threaten communal environmental well-being. Law is not merely a set of rules; it is the expression of competing ideas, shaped by historical context, philosophical discourse, and practical necessity. Property and environmental law, as two interconnected domains, are underpinned by distinct yet overlapping theories that justify ownership, usage, regulation, and conservation. This section explores the theoretical foundations that guide legal reasoning in property and environmental law, encompassing property theories, environmental theories, and two crucial legal doctrines: the public trust doctrine and the doctrine of eminent domain.

### 2.2.1. PROPERTY THEORIES

Historically, the notion of property has intrigued philosophers and legal scholars, leading to diverse theoretical justifications for ownership and utilization. These theories elucidate why individuals, corporations, and States assert rights over land and how those rights are balanced against public interest.

1. John Locke's Labour Theory of Property: Locke famously argued that property rights are derived from labour. In his *Two Treatises of Government*<sup>27</sup>, he stated that when an individual mixes their labour with a piece of land, through activities such as clearing, cultivating, or developing, it generates a natural right to that land. While this theory provides a robust justification for private ownership, it raises critical questions within the context of industrial land use. For instance, if ownership is contingent upon improvement, does an oil company that extracts crude oil from previously untouched land have a superior claim to it compared to the local community that has historically inhabited the area? The legal conflicts in Nigeria's Niger Delta, where multinational oil corporations displace indigenous communities, highlight the limitations of Locke's theory in a modern, industrialized world.
2. Jeremy Bentham, regarded as the father of utilitarianism, contended that property rights should facilitate the greatest good for the greatest number. According to Bentham, if private ownership benefits society by enhancing productivity and fostering economic growth, then it warrants protection<sup>28</sup>. However, if a particular use of land, such as industrial pollution, inflicts harms the larger society, then the government is justified in imposing restrictions. This rationale underlines environmental regulations in Nigerian

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<sup>27</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>28</sup> "What Is Environmental Law - And Why Does It Matter?" (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

law, wherein the government’s authority to mandate environmental impact assessments (EIAs) prior to granting land use permits aligns with the utilitarian view that private property should not be exercised to the detriment of the public.

3. Contemporary theories, advanced by legal scholars like Léon Duguit<sup>29</sup> and Rudolf von Ihering<sup>30</sup>, argue that property is not solely an individual right but rather a social function. Ownership entails responsibilities, necessitating that land-owners utilize their lands in ways that benefit society at large. This perspective explains why industrial land use is subject to zoning laws and environmental regulations. In Nigeria, the Land Use Act embodies this notion by vesting land within the domain of the State for the collective good.

### 2.2.2. ENVIRONMENTAL THEORIES

While property theories predominantly emphasize ownership and utilization, environmental theories focus on conservation and sustainable management. These theories provide the rationale for laws that regulate industrial land use, aimed at preventing environmental degradation.

1. The Tragedy of the Commons: Garrett Hardin’s Tragedy of the Commons<sup>31</sup> illustrates how unrestricted access to shared resources leads to depletion. When numerous individuals or corporations exploit a resource, such as land, forests, or water bodies, without regulatory intervention, each party seeks to maximize personal gain, resulting in collective detriment. This theory is particularly relevant in Nigeria’s oil industry,

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<sup>29</sup> Dhull R, “Principles Governing Environmental Law!” (*Knowledge Steez*, February 20, 2024) <<https://knowledgesteez.com/2024/02/principles-governing-environmental-law/>> accessed February 3, 2025.

<sup>30</sup> “What Is Environmental Law - And Why Does It Matter?” (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

<sup>31</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

where unregulated drilling and gas flaring have led to environmental disasters, such as the Ogoni crisis. It justifies the government's intervention in industrial land use through agencies like the National Environmental Standards and Regulations Enforcement Agency.

2. Sustainable Development Theory: This theory, embedded in international legal instruments such as the Rio Declaration on Environment and Development, posits that economic development should not compromise the needs of future generations. This theory strives to harmonize industrialization with conservation, requiring industries to adopt environmentally friendly practices. In Nigeria, the principle of sustainable development is reflected in laws that mandate industries to conduct EIAs before commencing operations. The judiciary has also upheld this principle, as evidenced by the ruling in *Gbemre v. Shell*<sup>32</sup>, in which the Court ruled against gas flaring due to its long-term environmental consequences.
3. Ecocentric and Anthropocentric Theories: Anthropocentric Theory views the environment primarily as a resource for human benefit. Laws inspired by this theory prioritize economic growth while instituting regulations to mitigate environmental damage. Ecocentric Theory on the other hand, posits that nature possesses intrinsic value, independent of human exploitation. This perspective informs conservation laws that protect biodiversity and prohibit destructive land use. Nigeria's environmental policies often oscillate between these two theoretical perspectives, seeking a balance between industrial expansions with ecological preservation.

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<sup>32</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.*, FHC/B/CS/53/05.

### 2.2.3. LEGAL DOCTRINE OF PUBLIC TRUST

The public trust doctrine is an ancient legal principle that posits that certain natural resources, such as air, water, and public lands, are held by the State in trust for the collective benefit of all citizens. This doctrine limits private property rights by ensuring that land use does not compromise public welfare. The origins of this principle can be traced back to Roman law, where Emperor Justinian proclaimed in the Institutes of Justinian<sup>33</sup> that “by the law of nature, air, running water, the sea, and the shores of the sea are common to mankind.” This principle later influenced English common law and was integrated into contemporary legal systems. In Nigeria, the public trust doctrine is manifested in several environmental statutes; the Land Use Act vests land in the State for the common good, the National Environmental Standards and Regulations Enforcement Agency Act and the Environmental Impact Assessment Act regulate industrial land use to prevent environmental degradation. Court decisions, such as in *Gbemre v. Shell*<sup>34</sup>, reinforced the notion that industries cannot utilize land in ways that harm the public. Thus, while a corporation may hold ownership of land, it does not possess absolute freedom to pollute or degrade its ecological value. The State, acting as the trustee, has a duty to regulate industrial activities to protect the public interest.

### 2.2.4. LEGAL DOCTRINE OF EMINENT DOMAIN

Eminent domain, also known as compulsory acquisition, represents the legal authority of the government to take private property for public use, provided that fair compensation is rendered. The principle is captured in the maxim *salus populi suprema lex est*<sup>35</sup>. Governments invoke eminent domain to acquire land for infrastructure projects, industrial zones, and

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<sup>33</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>34</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

<sup>35</sup> The welfare of the people is the supreme law.

environmental conservation efforts. In Nigeria, the doctrine is enshrined in the 1999 Constitution, which allows the compulsory acquisition of property “for public purposes”<sup>36</sup> with adequate compensation. The application of eminent domain has been widespread for the purpose of industrial development; however, it has also triggered legal disputes and social controversies. For instance, in Lagos, large tracts of land have been acquired for industrial parks and construction of coastal roads<sup>37</sup>, often resulting in the displacement of local communities. In the Niger Delta, oil corporations have benefited from government-facilitated land acquisitions, which have led to conflicts with indigenous landowners<sup>38</sup>. The challenge remains to ensure that the exercise of eminent domain is conducted equitably. The Courts have ruled in cases such as *Ogunleye v. Oni*<sup>39</sup> that compulsory acquisition must be substantiated by genuine public interest and accompanied by adequate compensation.

### 2.3. HISTORICAL FOUNDATION

Historically, the land use policies in Nigeria have transitioned from customary landholding systems through colonial land ordinances and eventually to the Land Use Act of 1978, which remains a cornerstone of property law in the country. This study examines how industrialization, particularly in oil-producing areas like the Niger Delta, has tested the boundaries of these legal frameworks. The historical trajectory indicates a recurring pattern: economic growth at the expense of environmental stability. The evolution of property rights, environmental law, and industrial land use in Nigeria is a tale of shifting power dynamics, colonial legacies, legal reforms, and the struggle between economic expansion and

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<sup>36</sup> Section 44 (1) of the Constitution of the Federal Republic of Nigeria, 1999.

<sup>37</sup> “What Is Environmental Law - And Why Does It Matter?” (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

<sup>38</sup> Dhull R, “Principles Governing Environmental Law!” (*Knowledge Steez*, February 20, 2024) <<https://knowledgesteez.com/2024/02/principles-governing-environmental-law/>> accessed February 3, 2025.

<sup>39</sup> *Ogunleye v. Oni* (1998) 8 NWLR (Pt. 397) 586.

environmental sustainability. From pre-colonial communal land systems to contemporary statutory regulations, Nigeria's legal framework has continuously evolved to seek a balance between ownership, land use, and environmental protection. This section will delve into this historical foundation by examining the evolution of property rights, the development of environmental law, historical trends in industrial land allocation, and the environmental consequences of industrialization.

### **2.3.1. EVOLUTION OF PROPERTY RIGHTS IN NIGERIA**

Prior to colonial rule, land tenure in Nigeria was predominantly governed by customary law, which emphasized communal ownership. Under this framework, land was held in trust by traditional rulers or family heads on behalf of the community, and individuals had rights of use rather than absolute ownership<sup>40</sup>. This system was predicated on the belief that land was a sacred inheritance, not a commodity to be bought or sold freely<sup>41</sup>. Under this system, industrial land use, as it is known today, was virtually non-existent. Land was allocated primarily for subsistence farming, fishing, and small-scale commerce. The principle of *ubi societas ibi jus*<sup>42</sup> ensured that land was managed according to societal norms, often with unwritten but strictly enforced rules.

The advent of British colonial rule in the 19th century marked a significant shift. The British introduced Western legal principles that prioritized private ownership over communal tenure. Several key legislations reshaped Nigeria's land system, the Land Proclamation Ordinance of 1900 vested land in the colonial government, thereby undermining the indigenous

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<sup>40</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>41</sup> Dhull R, "Principles Governing Environmental Law!" (*Knowledge Steez*, February 20, 2024) <<https://knowledgesteez.com/2024/02/principles-governing-environmental-law/>> accessed February 3, 2025.

<sup>42</sup> Where there is society, there is law.

rights to land<sup>43</sup>. The Public Lands Ordinance of 1917 permitted the government to acquire land for “public purposes,” laying the groundwork for contemporary eminent domain laws<sup>44</sup>. The Native Lands Acquisition Ordinance of 1946 prohibited non-Nigerians from acquiring land<sup>45</sup>, reflecting the emerging nationalist sentiment. These laws were designed to facilitate large-scale commercial agriculture and industrial projects, often to the detriment of local communities. The British model of land ownership, based on the maxim *cuius est solum, eius est usque ad coelum et ad inferos*<sup>46</sup>, contrasted sharply with Nigeria's traditional communal landholding practices.

After independence, Nigeria confronted the challenge of reconciling traditional land tenure systems with modern economic demands. The response to this challenge was the Land Use Act of 1978, which revolutionized land ownership by vesting all land in the State. Under this law, individuals and corporations no longer hold absolute ownership of land; instead, they are granted a government-issued right of occupancy, the government can allocate land for industrial use without the need for outright purchases<sup>47</sup>, and customary land rights become subordinated to statutory control<sup>48</sup>. This Act remains one of the most debated legal instruments in Nigeria’s property system. While it facilitates industrial land allocation, critics contend that

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<sup>43</sup> “What Is Environmental Law - And Why Does It Matter?” (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

<sup>44</sup> “Environmental Rights for the 21st Century: A Comprehensive Analysis of the Public Trust Doctrine and Rights of Nature Movement | Cardozo Law Review” <<https://cardozolawreview.com/environmental-rights-for-the-21st-century-a-comprehensive-analysis-of-the-public-trust-doctrine-and-rights-of-nature-movement/>> accessed February 3, 2025.

<sup>45</sup> “Theories of Property Law: Labour, Occupation and Economic” (November 6, 2023) <<https://www.lawteacher.net/free-law-essays/property-trusts/theories-property-law-9837.php#citethis>> accessed February 3, 2025.

<sup>46</sup> He who owns the land owns it up to the sky and down to the depths.

<sup>47</sup> Dhull R, “Principles Governing Environmental Law!” (*Knowledge Steez*, February 20, 2024) <<https://knowledgesteez.com/2024/02/principles-governing-environmental-law/>> accessed February 3, 2025.

<sup>48</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

it has resulted in bureaucratic inefficiencies, land speculation, and conflicts between local communities and investors.

### **2.3.2. DEVELOPMENT OF ENVIRONMENTAL LAW IN NIGERIA**

During the colonial era, environmental laws were minimal and largely focused on protecting European settlements from unsanitary conditions. The Public Health Act of 1917 contained the first environmental regulations, dealing with sanitation, waste disposal, and public health hazards. However, there was little attention to industrial pollution or ecological conservation. This negligence allowed industries, especially in the oil and mining sectors, to operate with minimal environmental oversight.

The late 20th century saw increasing awareness of environmental degradation, particularly due to industrial expansion. Several landmark events spurred legal reforms, the Koko Toxic Waste Dump Incident<sup>49</sup> exposed Nigeria's weak environmental laws when an Italian company illegally dumped hazardous waste in Delta State. The Ogoni Crisis<sup>50</sup> highlighted the severe ecological damage caused by oil extraction in the Niger Delta, leading to international advocacy for environmental justice. In response, Nigeria enacted the Environmental Impact Assessment Act and established the National Environmental Standards and Regulations Enforcement Agency to regulate industrial activities.

Today, Nigeria's environmental laws are more robust, influenced by global treaties such as the Kyoto Protocol and the Paris Agreement. Laws like the National Environmental Standards and Regulations Enforcement Agency Act impose stricter environmental compliance requirements on industries, though enforcement remains a challenge.

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<sup>49</sup> "What Is Environmental Law - And Why Does It Matter?" (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

<sup>50</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

### 2.3.3. HISTORICAL TRENDS IN INDUSTRIAL LAND ALLOCATION

The way land has been allocated for industrial purposes in Nigeria has evolved alongside economic and political changes. Industrial land use during the colonial period was primarily driven by the British government's economic interests. The establishment of ports, railways, and cash crop plantations led to the first large-scale land acquisitions for industrial purposes. Cities like Lagos, Port Harcourt, and Kaduna became industrial hubs. After independence, Nigeria pursued aggressive industrialization policies, leading to the establishment of government-owned industries and special economic zones. The oil boom of the 1970s accelerated this trend, with massive land allocations to oil companies. However, the environmental consequences were largely ignored, leading to the degradation of the Niger Delta. The economic downturn of the 1980s led to structural adjustment programs<sup>51</sup>, which encouraged privatization and foreign direct investment. Industrial land allocation became increasingly market-driven, with State governments competing to attract investors<sup>52</sup>. However, weak environmental regulations led to unchecked pollution and land degradation<sup>53</sup>. Modern industrial land policies emphasize public-private partnerships, free trade zones and smart cities. Projects like the Lekki Free Trade Zone demonstrate Nigeria's shift toward planned industrialization. However, conflicts over land acquisition and environmental impact remain pressing issues.

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<sup>51</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>52</sup> "Theories of Property Law: Labour, Occupation and Economic" (November 6, 2023) <<https://www.lawteacher.net/free-law-essays/property-trusts/theories-property-law-9837.php#citethis>> accessed February 3, 2025.

<sup>53</sup> "Property Rights: Definition, Types & Characteristics" (*StudySmarter UK*) <<https://www.studysmarter.co.uk/explanations/microeconomics/market-efficiency/property-rights/>> accessed February 3, 2025.

### 2.3.4. ENVIRONMENTAL CONSEQUENCES OF INDUSTRIALIZATION IN NIGERIA

Industrial expansion has brought economic growth but also severe environmental consequences. Large-scale industrial projects, especially in mining and agriculture, have led to extensive deforestation. The desertification of Northern Nigeria<sup>54</sup> and the loss of rainforest in Cross River State<sup>55</sup> illustrate the long-term impact of industrial land use. Industrial waste has heavily polluted rivers, especially in the Niger Delta<sup>56</sup>. The Bodo oil spills<sup>57</sup> caused by Shell's operations resulted in massive marine ecosystem damage and legal battles over compensation. Air pollution from industrial emissions, particularly in Lagos and Port Harcourt, has led to health crises, with residents suffering from respiratory diseases. Industrial land acquisitions have displaced indigenous communities. In cities like Abuja, rapid industrialization has led to the forced relocation of thousands, often without adequate compensation. This has fuelled legal disputes and social unrest. Nigeria's industrial activities contribute significantly to greenhouse gas emissions. Gas flaring, a common practice in the oil industry, releases methane and carbon dioxide, exacerbating global warming. Despite legal bans, enforcement remains weak.

### 2.4. LITERATURE REVIEW

Building on conceptual and historical discussions, the study engages with existing scholarly works that analyse the legal intersections of property rights and environmental regulation. It critically examines legal scholars' debates on whether Nigeria's environmental

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<sup>54</sup> "Environmental Rights for the 21st Century: A Comprehensive Analysis of the Public Trust Doctrine and Rights of Nature Movement | Cardozo Law Review" <<https://cardozolawreview.com/environmental-rights-for-the-21st-century-a-comprehensive-analysis-of-the-public-trust-doctrine-and-rights-of-nature-movement/>> accessed February 3, 2025.

<sup>55</sup> "What Is Environmental Law - And Why Does It Matter?" (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

<sup>56</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>57</sup> *The Bodo Community v. Shell* [2024] EWHC 276 (TCC).

laws are robust enough to check industrial encroachments on land. Case studies from jurisdictions like South Africa and India are briefly considered to highlight comparative approaches. Furthermore, judicial pronouncements play a crucial role in shaping the discourse. Cases such as *Gbemre v. Shell*<sup>58</sup>, where the Court upheld environmental rights against industrial pollution, are dissected to illustrate the judiciary's evolving stance. The review also explores gaps in legislation, pointing out instances where regulatory bodies, such as the National Environmental Standards and Regulations Enforcement Agency, struggle to enforce compliance due to political and economic pressures.

Legal scholarship provides a crucial lens for understanding the intersection of property rights and environmental law, particularly regarding industrial land use in Nigeria. Scholars have debated the historical foundations, theoretical justifications, and regulatory frameworks that shape how land is owned, allocated, and utilized for industrial purposes. This literature review explores existing perspectives on property rights in Nigeria and provides a critical analysis of environmental laws that regulate industrial land use.

#### **2.4.1 SCHOLARLY PERSPECTIVES ON PROPERTY RIGHTS IN NIGERIA**

Property rights have been extensively discussed in legal, economic, and political scholarship. The discourse largely revolves around ownership structures, statutory interventions, and the tension between private rights and public interest. Scholars like Elias<sup>59</sup> and Nwabueze<sup>60</sup> highlights the pre-colonial communal land tenure system, where land was viewed as a shared inheritance rather than an individual asset. They argue that the British-imposed statutory land system disrupted indigenous land governance, creating conflicts that

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<sup>58</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

<sup>59</sup> Elias TO, *Nigerian Land Law and Custom* (Routledge 1951).

<sup>60</sup> Nwabueze BO, *Nigerian Land Law* (Nwamife Publishers 1972).

persist today. Ajibola<sup>61</sup> critiques the **Land Use Act**, asserting that it centralizes land control under the State in a way that erodes traditional property rights. He describes the Act as a double-edged sword: while it prevents land speculation and ensures equitable allocation, it also increases bureaucratic inefficiencies, corruption, and government overreach. Comparing Nigeria to other jurisdictions, Akinyemi<sup>62</sup> contrasts Nigeria’s centralized land system with South Africa’s post-apartheid land reforms, which emphasize restitution and community ownership. He argues that Nigeria’s property framework needs to be more flexible to accommodate traditional landowners, especially in industrial land allocations.

The economic dimension of property rights has been a major area of inquiry. De Soto<sup>63</sup> famously argued that secure property rights are a prerequisite for economic growth, as they provide landowners with capital for investment. However, Nigerian scholars like Olowu<sup>64</sup> counter that land security in Nigeria is often undermined by government interference and inconsistent policies. For instance, the frequent revocation of land titles for industrial purposes, justified under eminent domain, has led to uncertainty in property markets. Cases such as *Ogunleye v. Oni*<sup>65</sup> illustrate how legal disputes over land compensation can slow industrial projects and discourage foreign investment.

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<sup>61</sup> “Theories of Property Law: Labour, Occupation and Economic” (November 6, 2023) <<https://www.lawteacher.net/free-law-essays/property-trusts/theories-property-law-9837.php#citethis>> accessed February 3, 2025.

<sup>62</sup> Adebayo T, “Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News” (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-ccfa3bfdd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

<sup>63</sup> “Environmental Rights for the 21st Century: A Comprehensive Analysis of the Public Trust Doctrine and Rights of Nature Movement | Cardozo Law Review” <<https://cardozolawreview.com/environmental-rights-for-the-21st-century-a-comprehensive-analysis-of-the-public-trust-doctrine-and-rights-of-nature-movement/>> accessed February 3, 2025.

<sup>64</sup> “What Is Environmental Law - And Why Does It Matter?” (*American Public University*, August 20, 2024) <<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-environmental-law/>> accessed February 3, 2025.

<sup>65</sup> *Ogunleye v. Oni* (1998) 8 NWLR (Pt. 397) 586.

A significant body of scholarship focuses on the environmental consequences of industrial land use. Omorogbe<sup>66</sup> critiques Nigeria's approach to oil-rich land allocation, arguing that it prioritizes economic gains over environmental sustainability. She cites the Niger Delta as a prime example of how weak enforcement of environmental laws enables industrial pollution, land degradation, and community displacement. Similarly, Umeh<sup>67</sup> explores the conflict between landowners and industrial corporations, emphasizing the lack of legal mechanisms to hold industries accountable for environmental damage. He advocates for a stronger judicial role in enforcing environmental rights, referencing cases like *Gbemre v. Shell*<sup>68</sup>, where Courts acknowledged environmental violations but failed to impose stringent penalties.

#### **2.4.2. ANALYSIS OF ENVIRONMENTAL LAWS AFFECTING INDUSTRIAL LAND USE IN NIGERIA**

Environmental law in Nigeria has evolved in response to industrial expansion and ecological crises. Legal scholars have assessed the strengths and weaknesses of these laws, highlighting gaps in enforcement and regulatory oversight. The Environmental Impact Assessment Act is one of Nigeria's most significant environmental laws, requiring industries to assess the ecological impact of their projects before commencing operations. Scholars like Ebeku<sup>69</sup> commend the Act for aligning Nigeria with global environmental standards, but they criticize its weak implementation. For example, despite requirements of the Act, industries in Lagos and Port Harcourt often bypass regulatory processes through political connections.

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<sup>66</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>67</sup> Dhull R, "Principles Governing Environmental Law!" (*Knowledge Steez*, February 20, 2024) <<https://knowledgesteez.com/2024/02/principles-governing-environmental-law/>> accessed February 3, 2025.

<sup>68</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

<sup>69</sup> Lawal, A. I., "Environmental Impact Assessment in Nigeria: 30 Years After," (2021).

Ebeku cites the Lekki Free Trade Zone as an instance where large-scale industrial land allocation proceeded with limited environmental scrutiny, raising concerns about regulatory capture.

The National Environmental Standards and Regulations Enforcement Agency Act established NESREA as the primary enforcement body for environmental regulations. Scholars like Ijaiya<sup>70</sup> argue that NESREA has improved environmental governance by imposing stricter pollution controls. However, Ajayi<sup>71</sup> points out that NESREA lacks jurisdiction over the oil and gas sector, which is regulated by the Department of Petroleum Resources (DPR). This jurisdictional overlap has led to inconsistent enforcement. A case in point is the oil spill litigation against multinational corporations like Shell and Chevron. In *The Bodo Community v. Shell*<sup>72</sup>, NESREA was largely absent from the legal battle, leaving affected communities to seek redress through foreign Courts. This demonstrates the limitations of Nigeria's regulatory framework in addressing industrial environmental violations.

In addition to Federal laws, Nigerian States have their own environmental regulations. Lagos, for instance, has stringent industrial zoning laws under the Lagos State Environmental Protection Agency Law. Scholars like Adeyemi<sup>73</sup> argue that State-level environmental laws are often more effective than Federal regulations because they are tailored to local conditions. However, this decentralized approach also leads to inconsistencies. In States like Rivers and Delta, weak local governance has enabled industries to bypass environmental regulations. The absence of uniform enforcement mechanisms means that industrial land use is regulated unevenly across the country.

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<sup>70</sup> Ijaiya, H.O. & Joseph, O.T. (2014). Rethinking Environmental Law Enforcement in Nigeria. *Beijing Law Review*, 5 (4), 306-321.

<sup>71</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>72</sup> *The Bodo Community v. Shell* [2024] EWHC 276 (TCC).

<sup>73</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

Nigeria is a signatory to several international environmental treaties, including the Kyoto Protocol and the Paris Agreement. Okonkwo<sup>74</sup> explores how these agreements have influenced domestic legislation, leading to the adoption of carbon reduction policies and sustainable industrial practices. However, he notes that compliance remains largely aspirational, as enforcement mechanisms are weak. One example is Nigeria's gas flaring regulations. Despite being a major contributor to greenhouse gas emissions, gas flaring remains prevalent because enforcement agencies lack the authority to impose severe penalties on violators. The case of *Gbemre v. Shell*<sup>75</sup> illustrates this gap, as the Court ruled against gas flaring but failed to ensure compliance.

## 2.5. GAPS IN EXISTING LITERATURE

A robust academic discussion on property rights and environmental law in Nigeria exists, but significant gaps remain, particularly concerning the legal implications of industrial land use and Nigeria's position within the broader global environmental discourse. Scholars have explored property rights, industrial land allocation, and environmental regulations in isolation, but few have comprehensively examined their intersection, particularly through a legal lens. Additionally, while global environmental discussions influence Nigerian policies, there is a limited scholarly focus on how Nigeria's unique challenges shape, or are shaped by, international environmental frameworks. This section highlights these gaps and their implications for legal scholarship and policy development.

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<sup>74</sup> Olamide O and Olamide O, "Okonkwo Advocates Mainstreaming Sustainability Practices in Government's Business" (*The Eagle Online*, November 1, 2024) <[https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm\\_source=chatgpt.com](https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm_source=chatgpt.com)> accessed February 13, 2025.

<sup>75</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

### 2.5.1. LIMITED FOCUS ON THE LEGAL IMPLICATIONS OF INDUSTRIAL LAND USE

Industrial land use is central to economic development, yet its legal dimensions remain understudied. Most discussions on land use focus on economic, environmental, or socio-political factors, often side-lining the legal intricacies that define land rights, regulatory compliance, and State intervention.

Existing scholarship largely treats property law and environmental law as separate domains. While studies have extensively analysed the Land Use Act, the Environmental Impact Assessment Act and the National Environmental Standards and Regulations Enforcement Agency Act, there is little discussion on how these laws interact to regulate industrial land use specifically. For instance, industrial zones such as the Lekki Free Trade Zone and Onne Oil and Gas Free Zone operate under multiple legal regimes, including Federal, State, and special economic zone laws. However, legal scholars have not fully examined the implications of these overlapping regulations, particularly in cases of land disputes, environmental violations, and State intervention. The maxim *lex specialis derogat legi generali*<sup>76</sup> is often cited in such cases, but there is little clarity on which legal framework takes precedence when conflicts arise.

Another major gap is the inadequate examination of legal disputes surrounding compulsory land acquisitions for industrial purposes. Eminent domain is often justified under the principle of *salus populi suprema lex*<sup>77</sup>, yet Nigerian Courts frequently struggle to balance State interests with individual property rights. For example, in cases like *Olatunji v. Military Governor of Oyo State*<sup>78</sup>, communities have challenged government expropriations, arguing that compensation was inadequate or that due process was not followed. However, there is limited legal scholarship analysing Court rulings on such disputes. Questions such as how do

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<sup>76</sup> A special law prevails over a general law.

<sup>77</sup> The welfare of the people is the highest law.

<sup>78</sup> *Olatunji v. Military Governor of Oyo State* (1995) 5 NWLR (Pt. 397) 586.

Nigerian Courts interpret the principle of "public purpose" in industrial land acquisitions? What legal remedies exist for affected communities? How does the Land Use Act compare with international eminent domain laws? remain largely unexplored in Nigerian legal literature.

While environmental damage caused by industrial land use is widely acknowledged, few scholars have examined corporate liability from a strict legal perspective. There is significant discussion on pollution, deforestation, and displacement, but little on the effectiveness of environmental litigation in Nigerian Courts. Many landmark cases, such as *Gbemre v. Shell*<sup>79</sup>, have set important precedents, but there is limited analysis of how these rulings impact future legal battles. The enforceability of environmental obligations in industrial contracts. Many industries sign agreements with the government regarding land use, but do these contracts include enforceable environmental obligations? If so, how often are they legally challenged? In contrast, in jurisdictions like the United States, environmental law scholars have extensively analysed corporate accountability through cases like *Massachusetts v. EPA*<sup>80</sup>, but similar rigorous legal scrutiny is lacking in Nigeria.

## **2.5.2. INSUFFICIENT ANALYSIS OF THE NIGERIAN CONTEXT IN GLOBAL ENVIRONMENTAL DISCOURSE**

While Nigeria is a signatory to numerous international environmental treaties, legal scholars have paid little attention to how Nigeria's unique land use challenges align with or diverge from global environmental standards.

Environmental law literature often discusses Nigeria's obligations under agreements like the Kyoto Protocol and Paris Agreement, but there is little analysis of whether Nigeria's legal frameworks actually reflect these commitments. For instance, while gas flaring is prohibited under Nigerian law, enforcement is weak, and scholars have not sufficiently

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<sup>79</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.  
<sup>80</sup> *Massachusetts v. EPA*, 549 U.S. 497 (2007).

explored why international environmental norms fail to translate into effective domestic policies. Comparative studies with countries like Brazil or India, which have similar industrialization trajectories, could provide valuable insights. However, most Nigerian legal studies focus inward, rarely engaging with global comparative analyses.

Nigeria's indigenous communities have long-standing land management traditions that emphasize ecological balance, yet these perspectives are often absent in international environmental law discussions. Legal scholars have explored how indigenous groups in countries like Canada and Australia influence environmental policies, but similar discussions on Nigeria are rare. For example, the Ogoni people's environmental activism has gained international attention, yet legal scholarship on how their traditional land rights intersect with international environmental law is limited. There is little exploration of whether international human rights instruments, such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) provide legal grounds for indigenous claims against industrial land use. How Nigeria's legal system incorporates indigenous environmental knowledge into statutory environmental regulations.

Globally, climate change litigation is on the rise, with Courts increasingly recognizing environmental rights as fundamental human rights. Landmark cases like *Urgenda Foundation v. The Netherlands*<sup>81</sup> have set precedents for holding governments accountable for climate inaction. However, in Nigeria, there has been limited discussion on the role of climate litigation in shaping industrial land use policies. Questions such as can Nigerian Courts compel the government to enforce stricter environmental regulations on industries? Do Nigerian citizens have a constitutional right to a clean environment, as recognized in countries like India? How

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<sup>81</sup> "Urgenda Foundation v. The State of the Netherlands - ELAW: Environmental Law Alliance Worldwide" (*ELAW: Environmental Law Alliance Worldwide*, July 24, 2024) <<https://elaw.org/resource/urgenda-foundation-v-the-state-of-the-netherlands>> accessed February 3, 2025.

does Nigeria's environmental litigation compare to that of other African nations, such as South Africa's Earthlife Africa case? remain largely unaddressed in legal literature.

## CHAPTER THREE

### LEGAL AND INSTITUTIONAL FRAMEWORKS

Land is more than just soil; it is the foundation of property, commerce, and civilization itself. Yet, when industrialization meets environmental concerns, the balance between property rights and environmental protection becomes a delicate legal dance. This study delves into the legal and institutional structures governing land use for industrial purposes in Nigeria, examining how laws, policies, and regulatory bodies navigate the tension between economic development and environmental sustainability. At the heart of this discourse is the age-old principle of *sic utere tuo ut alienum non laedas*<sup>82</sup>. This maxim underscores the legal frameworks that seek to reconcile an individual's right to use land for industrial growth with the collective duty to protect the environment. Nigeria's legal landscape in this regard is a mosaic of statutes, regulations, and institutional mechanisms designed to manage land use while mitigating environmental harm.

#### 3.1. LEGAL FRAMEWORK FOR PROPERTY RIGHTS AND ENVIRONMENTAL LAW

Nigeria's legal framework for land use is anchored in the Land Use Act which vests land in State governments to ensure equitable access and orderly development. However, industrial expansion often leads to clashes between landowners, businesses, and environmental activists. For example, when a manufacturing company acquires land, its right to exploit that land for profit may come into conflict with laws aimed at preventing pollution, such as the Environmental Impact Assessment Act and the National Environmental Standards and Regulations Enforcement Agency Act. These laws function as legal guardrails, ensuring that economic ambition does not override environmental responsibility. Additionally, constitutional

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<sup>82</sup> Use your property so as not to harm another's.

provisions affirm the government's obligation to protect and improve the environment, reinforcing the argument that property rights are not absolute but subject to broader societal interests<sup>83</sup>. The tension between these rights and regulatory interventions reflects the legal balancing act between private ownership and public welfare. The legal framework governing property rights and environmental law in Nigeria is a complex but interconnected system of constitutional provisions, statutory enactments, and sector-specific regulations<sup>84</sup>. These legal instruments seek to balance economic development with environmental sustainability, ensuring that industrial land use does not lead to environmental degradation. This section provides an analytical discussion of the legal framework, drawing from various statutory provisions, judicial interpretations, and legal doctrines.

### 3.1.1. CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999

The Constitution of the Federal Republic of Nigeria 1999 serves as the supreme legal framework governing property rights and environmental law, shaping the delicate balance between individual ownership and State intervention. Section 43 guarantees the right of every Nigerian to acquire and own immovable property anywhere in the country, reinforcing the principle that property ownership is a fundamental human right. However, this right is not absolute, as Section 44 grants the government the power of eminent domain, allowing for the compulsory acquisition of land for public purposes, provided that fair compensation is given, a principle encapsulated in the Latin maxim *salus populi suprema lex esto*<sup>85</sup>. While property rights are constitutionally protected, environmental rights remain largely aspirational rather

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<sup>83</sup> Adebayo T, "Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News" (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-ccfa3bfdd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

<sup>84</sup> Olamide O and Olamide O, "Okonkwo Advocates Mainstreaming Sustainability Practices in Government's Business" (*The Eagle Online*, November 1, 2024) <[https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm\\_source=chatgpt.com](https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm_source=chatgpt.com)> accessed February 13, 2025.

<sup>85</sup> The welfare of the people is the highest law.

than enforceable<sup>86</sup>. Section 20 places a duty on the State to “protect and improve the environment and safeguard the water, air, and land, forest, and wildlife of Nigeria,” yet this provision is contained in Chapter two of the 1999 Constitution, making it non-justiciable and unenforceable by individuals in Court<sup>87</sup>. This legal gap has led to judicial innovation, where Courts have sought to enforce environmental rights through broader constitutional interpretations. In *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd*<sup>88</sup>, the Federal High Court broke new ground by holding that gas flaring violated the constitutional right to life and dignity, reasoning that a clean and healthy environment is intrinsic to these fundamental rights. This case reflects an evolving judicial approach that indirectly enforces environmental protections by linking them to justiciable human rights, thereby attempting to fill the legislative void left by Nigeria’s constitutional framework.

### 3.1.2. LAND USE ACT

The Land Use Act 1978<sup>89</sup> serves as the principal legislation governing land tenure and administration in Nigeria, fundamentally altering the legal landscape of land ownership by vesting all land in each State in the governor, who holds it in trust for the people. This statutory framework centralizes land control, empowering State governors to allocate statutory rights of occupancy for industrial, commercial, and other purposes, while local governments oversee customary rights of occupancy in non-urban areas. However, industrial land allocation often brings the Act into conflict with environmental preservation laws, as Section 5 (1) (a) allows governors to grant land for all purposes, potentially overriding environmental concerns if not

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<sup>86</sup> Ijaiya, H.O. & Joseph, O.T. (2014). Rethinking Environmental Law Enforcement in Nigeria. *Beijing Law Review*, 5 (4), 306-321.

<sup>87</sup> Section 6 (6) (c) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

<sup>88</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd*. FHC/B/CS/53/05.

<sup>89</sup> Olamide O and Olamide O, “Okonkwo Advocates Mainstreaming Sustainability Practices in Government’s Business” (*The Eagle Online*, November 1, 2024) <[https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm\\_source=chatgpt.com](https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm_source=chatgpt.com)> accessed February 13, 2025.

properly regulated. The Act does attempt to balance development with sustainability through Section 28, which grants the government the authority to revoke land titles in the interest of public welfare, including environmental protection, yet this power has been frequently criticized for its lack of transparency and inconsistent application. Compensation for expropriated land, governed by Section 29, remains contentious, as affected landowners must navigate bureaucratic hurdles to receive fair recompense for "unexhausted improvements", a legal term referring to permanent developments like buildings and plantations. Moreover, Section 33 offers the possibility of resettlement instead of monetary compensation, but this provision is rarely implemented effectively, leaving many displaced individuals without adequate redress. In practice, the Act's framework for compulsory acquisition often fails to balance the economic imperatives of industrialization with the need for environmental justice, creating legal uncertainty and frequent disputes over land ownership, environmental degradation, and inadequate compensation mechanisms.

### **3.1.3. NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY ACT**

The National Environmental Standards and Regulations Enforcement Agency Act, 2007 establishes NESREA as the principal regulatory body responsible for enforcing environmental laws in Nigeria, ensuring compliance with both national policies and international agreements. The agency is empowered under Section 7 (a) to enforce compliance with environmental standards, laws, guidelines, and policies, reflecting its broad mandate to oversee industrial, commercial, and development activities that impact the environment. NESREA's role extends beyond mere regulation; Section 7 (c) mandates it to enforce compliance with international agreements, protocols, and treaties on environmental protection, including those related to biodiversity conservation, climate change, and pollution control. One

of the Act's most stringent provisions is Section 27, which explicitly prohibits the discharge of hazardous substances into Nigeria's air, land, or waters without proper authorization, with violations attracting fines of up to ₦1,000,000 and potential imprisonment. Additionally, while Sections 30 and 31 grant NESREA the power to enter premises, conduct inspections, and prosecute offenders, the agency often struggles with bureaucratic constraints, funding limitations, and political interference in enforcing these provisions. Although NESREA plays a crucial role in Nigeria's environmental governance, the effectiveness of its enforcement mechanisms remains hindered by overlapping mandates, weak institutional capacity, and resistance from powerful industrial interests, highlighting the need for stronger inter-agency collaboration and enhanced enforcement autonomy.

#### **3.1.4. ENVIRONMENTAL IMPACT ASSESSMENT ACT 1992**

The Environmental Impact Assessment Act, 1992 establishes a mandatory framework for assessing the potential environmental effects of industrial projects before their commencement, ensuring that economic development does not come at the expense of environmental sustainability<sup>90</sup>. Section 2 (1) explicitly prohibits both public and private entities from undertaking or authorizing projects without prior consideration of their environmental impact, reinforcing the principle that prevention is better than cure in environmental governance. The Act sets out comprehensive screening, review, and approval procedures, requiring developers to submit detailed assessments of potential environmental consequences, as outlined in Section 4, which mandates a description of the proposed project, affected environment, mitigation measures, and alternatives. Judicial interpretation has strengthened the role of EIAs in protecting environmental rights, as seen in *Jonah Gbemre v. Shell Petroleum*

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<sup>90</sup> Olamide O and Olamide O, "Okonkwo Advocates Mainstreaming Sustainability Practices in Government's Business" (*The Eagle Online*, November 1, 2024) <[https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm\\_source=chatgpt.com](https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm_source=chatgpt.com)> accessed February 13, 2025.

*Development Company*<sup>91</sup>, where the Federal High Court ruled that failing to conduct an EIA before undertaking an industrial project constitutes a violation of fundamental rights, particularly the right to life<sup>92</sup> and dignity<sup>93</sup>. This aligns with Section 15 of the Environmental Impact Assessment Act, which mandates environmental assessments for projects with significant ecological impacts, while Section 22 reinforces the necessity of public participation in the review process. The Act's effectiveness hinges not just on legal provisions but also on institutional commitment and public awareness, making it crucial for Nigeria to strengthen compliance mechanisms and ensure that environmental assessments translate into tangible protective measures for ecosystems and communities.

### **3.1.5. HARMFUL WASTE (SPECIAL CRIMINAL PROVISIONS) ACT 1988**

The Harmful Waste (Special Criminal Provisions, etc.) Act 1988 was enacted in response to the Koko toxic waste incident, where hazardous waste from Italy was illegally dumped in Nigeria, exposing the country's vulnerability to trans-boundary environmental crimes<sup>94</sup>. To address such threats, Section 1 (1) of the Act prohibits all activities related to the purchase, sale, importation, transit, transportation, deposit, and storage of harmful wastes, making it a strict liability offense regardless of intent. This prohibition is reinforced by Section 6, which imposes life imprisonment for offenders, alongside the forfeiture of land and transport equipment used in committing the crime, demonstrating the Act's zero-tolerance approach. The Act extends its jurisdiction beyond Nigeria's borders, as Section 13 grants the Federal High

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<sup>91</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

<sup>92</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>93</sup> Olamide O and Olamide O, "Okonkwo Advocates Mainstreaming Sustainability Practices in Government's Business" (*The Eagle Online*, November 1, 2024) <[https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm\\_source=chatgpt.com](https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm_source=chatgpt.com)> accessed February 13, 2025.

<sup>94</sup> Adebayo T, "Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News" (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-cfca3bfd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

Court exclusive jurisdiction over offenders, including foreign entities, ensuring accountability for international actors involved in environmental crimes. Additionally, Section 12 establishes civil liability for damages, meaning that victims of hazardous waste dumping can seek legal redress. In line with international law, the Act aligns with Nigeria's obligations under the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes, reinforcing the principle that "the polluter must pay". While Nigeria has the legal framework to combat hazardous waste dumping, stronger institutional enforcement, inter-agency cooperation<sup>95</sup>, and international collaboration are essential to ensure that environmental justice is not just a theoretical ideal but a practical reality.

### **3.1.6. SECTOR-SPECIFIC REGULATIONS**

Various sectors in Nigeria operate under specific regulatory frameworks that govern industrial land use and environmental protection, yet enforcement challenges persist across industries. In the mining sector, the Minerals and Mining Act, 2007 mandates environmental protection measures, requiring mining companies to implement reclamation plans for mined land to restore ecological balance and prevent land degradation<sup>96</sup>. However, weak enforcement has led to widespread abandoned mines, contributing to erosion, water contamination, and loss of biodiversity. In the agricultural sector, the National Agricultural Policy promotes sustainable land use practices, aiming to combat soil degradation and deforestation<sup>97</sup>, yet unsustainable farming techniques, deforestation for commercial agriculture, and inadequate enforcement mechanisms exacerbate land degradation. The oil and gas sector, arguably Nigeria's most

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<sup>95</sup> Olamide O and Olamide O, "Okonkwo Advocates Mainstreaming Sustainability Practices in Government's Business" (*The Eagle Online*, November 1, 2024) <[https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm\\_source=chatgpt.com](https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm_source=chatgpt.com)> accessed February 13, 2025.

<sup>96</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>97</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

environmentally contentious industry, is regulated by the Petroleum Act and the Associated Gas Re-Injection Act, which set standards for oil exploration, drilling, and gas flaring reduction<sup>98</sup>. However, these regulations suffer from weak enforcement and regulatory capture, particularly in the Niger Delta, where oil spills, gas flaring, and habitat destruction continue unabated<sup>99</sup>. The failure to hold oil companies accountable, coupled with government reliance on petroleum revenues, and has allowed environmental violations to persist, often at the expense of local communities' health, livelihoods, and environmental rights. While these sector-specific laws provide a regulatory framework for balancing industrial activities with environmental conservation, enforcement gaps, corruption, and regulatory inefficiencies continue to hinder their effectiveness, raising critical concerns about Nigeria's ability to achieve sustainable industrial land use and environmental justice<sup>100</sup>.

### **3.2. INSTITUTIONAL FRAMEWORKS FOR LAND USE AND ENVIRONMENTAL MANAGEMENT**

Laws alone are not enough; institutions are the enforcers of environmental accountability. Agencies like NESREA, the Federal Ministry of Environment, and the National Oil Spill Detection and Response Agency (NOSDRA) serve as Nigeria's environmental watchdogs, ensuring compliance with regulations. Yet, enforcement challenges persist, bureaucratic inefficiencies, corruption, and political interference often dilute the effectiveness of these bodies<sup>101</sup>. For instance, despite NESREA's mandate to regulate industrial emissions,

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<sup>98</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 Discover Environment <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

<sup>99</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>100</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>101</sup> Olamide O and Olamide O, "Okonkwo Advocates Mainstreaming Sustainability Practices in Government's Business" (*The Eagle Online*, November 1, 2024)

cases of unchecked pollution remain prevalent, particularly in the oil-rich Niger Delta<sup>102</sup>, where land is both a blessing and a battleground. The institutional weaknesses here expose a critical gap in Nigeria’s environmental governance: while the legal framework exists, its practical enforcement is often inadequate. Institutions are the backbone of environmental governance, serving as the enforcement arms of laws and policies designed to regulate land use and protect the environment. In Nigeria, multiple institutions operate at the Federal, State, and local levels, often in collaboration with international and regional bodies. However, the effectiveness of these institutions varies due to bureaucratic inefficiencies, political interference, and enforcement challenges. This section critically examines the key institutional actors involved in land use and environmental management, analysing their roles, limitations, and the broader implications for sustainable industrial land use.

### **3.2.1. NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY**

The National Environmental Standards and Regulations Enforcement Agency (NESREA), established under the National Environmental Standards and Regulations Enforcement Agency Act, 2007, serves as Nigeria’s principal regulatory body for enforcing environmental laws, with a broad mandate covering industries, construction, and manufacturing. Tasked with regulatory oversight, NESREA ensures compliance with environmental standards, laws, and guidelines, holding industrial actors accountable for pollution control and environmental sustainability<sup>103</sup>. A critical aspect of its mandate is

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<[https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm\\_source=chatgpt.com](https://theeagleonline.com.ng/okonkwo-advocates-mainstreaming-sustainability-practices-in-governments-business/?utm_source=chatgpt.com)> accessed February 13, 2025.

<sup>102</sup> Rowland G, “Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies,” *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>103</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

monitoring and enforcement, which includes conducting environmental audits, assessing industrial activities for compliance, and penalizing violators. Under Section 27 of the NESREA Act, the agency has the authority to prosecute entities that discharge hazardous substances into the air, land, or water without authorization, with penalties ranging from fines to imprisonment, reinforcing the polluter pays principle. Beyond enforcement, NESREA plays a pivotal role in public awareness and education, engaging in environmental campaigns aimed at promoting sustainable practices, informing businesses about compliance obligations, and encouraging community participation in environmental governance<sup>104</sup>. However, despite its comprehensive legal mandate, NESREA faces significant challenges, including limited jurisdiction over the oil and gas sector, insufficient funding, and political interference, which weaken its ability to enforce environmental laws effectively<sup>105</sup>. Strengthening NESREA's institutional capacity, jurisdiction, and inter-agency collaboration is essential to ensuring that environmental laws are not merely symbolic but actively enforced to protect Nigeria's ecosystems and public health.

### **3.2.2. FEDERAL MINISTRY OF LANDS, HOUSING, AND URBAN DEVELOPMENT**

The Federal Ministry of Lands, Housing, and Urban Development plays a pivotal role in land allocation, urban planning, and housing policies, significantly shaping industrial land use and environmental sustainability in Nigeria. Central to its mandate is land policy and administration, where the Ministry operates within the framework of the Land Use Act, 1978, which vests land ownership in State governments while allowing Federal oversight for strategic national projects. This regulatory structure ensures that industrial land allocations align with

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<sup>104</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 Discover Environment <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

<sup>105</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

national development goals, but in practice, conflicts often arise between economic expansion and environmental conservation. Additionally, the Ministry is responsible for urban and regional planning, particularly through the regulation of zoning laws, ensuring that industrial developments are established in designated areas to mitigate environmental risks<sup>106</sup>. However, weak enforcement and lack of coordination between Federal and State authorities often result in unplanned industrial sprawl, leading to deforestation, pollution, and displacement of local communities<sup>107</sup>. To address these challenges, the Ministry actively engages in public-private partnerships (PPPs), collaborating with private developers to promote sustainable land use, balancing economic growth with environmental responsibility. While these efforts aim to create a structured and environmentally conscious approach to industrial land use, gaps in policy enforcement, corruption in land allocation, and weak intergovernmental coordination continue to undermine the Ministry's ability to effectively regulate industrial expansion while ensuring ecological protection<sup>108</sup>. Strengthening institutional frameworks, transparency in land administration, and inter-agency collaboration remains crucial to achieving a sustainable and legally sound industrial land use system in Nigeria.

### 3.2.3. STATE MINISTRIES OF ENVIRONMENT AND LANDS

Each State in Nigeria has a Ministry of Environment and a Ministry of Lands, both of which play crucial roles in environmental regulation and land administration within their respective jurisdictions. One of their primary functions is the issuance of Land Use Permits,

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<sup>106</sup> Opukri, C, Ibaba, Samuel and Ibaba, Ibaba, "Oil Induced Environmental Degradation and Internal Population Displacement in The Nigeria's Niger Delta" (2008) 10 *Journal of Sustainable Development in Africa*. <[https://www.researchgate.net/publication/267549659\\_OIL\\_INDUCED\\_ENVIRONMENTAL\\_DEGRADATION\\_AND\\_INTERNAL\\_POPULATION\\_DISPLACEMENT\\_IN\\_THE\\_NIGERIA'S\\_NIGER\\_DELTA](https://www.researchgate.net/publication/267549659_OIL_INDUCED_ENVIRONMENTAL_DEGRADATION_AND_INTERNAL_POPULATION_DISPLACEMENT_IN_THE_NIGERIA'S_NIGER_DELTA)> accessed January 7, 2025.

<sup>107</sup> "Deforestation in the Amazon Rainforest: Causes, Effects, Solutions" (*DGB Group*, December 9, 2024) <<https://www.green.earth/blog/deforestation-in-the-amazon-rainforest-causes-effects-solutions>> accessed January 7, 2025.

<sup>108</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

where State Ministries of Lands allocate Certificates of Occupancy (C of O) for industrial land use, often requiring an Environmental Impact Assessment (EIA) before approval to ensure that development projects do not pose significant environmental risks<sup>109</sup>. However, enforcement is often inconsistent, as political and economic pressures sometimes override environmental considerations, leading to unregulated industrial expansion. Additionally, these ministries are responsible for the enforcement of State environmental laws, which are designed to address region-specific ecological challenges. For instance, States in the southeast prioritize erosion control, while northern States focus on desertification mitigation, reflecting the diverse environmental threats across Nigeria<sup>110</sup>. Despite their local authority, State ministries do not operate in isolation, as they must collaborate with NESREA, which is responsible for enforcing national environmental standards. While NESREA focuses on broader regulatory compliance, State ministries handle localized issues such as waste management, flooding, and urban pollution. However, the effectiveness of this collaboration is often hindered by jurisdictional overlaps, lack of coordination, and insufficient funding, which weaken environmental governance at the State level. Strengthening intergovernmental synergy, improving enforcement mechanisms, and ensuring transparency in land allocations are critical to enhancing the role of State ministries in achieving sustainable industrial land use and environmental protection.

### **3.2.4. LOCAL GOVERNMENT AUTHORITIES**

Local Governments (LGAs), being the closest administrative units to the people, play a crucial role in grassroots environmental governance, ensuring that local communities are

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<sup>109</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>110</sup> Ordinioha B and Brisibe S, “The Human Health Implications of Crude Oil Spills in the Niger Delta, Nigeria: An Interpretation of Published Studies” (2013) 54 *Nigerian Medical Journal* 10 <<https://doi.org/10.4103/0300-1652.108887>> accessed January 7, 2025.

protected from environmental harm while facilitating sustainable development. One of their primary responsibilities is land use monitoring, where LGAs oversee small-scale land transactions and manage local development planning<sup>111</sup>, ensuring that land use adheres to zoning regulations and is aligned with community needs<sup>112</sup>. Additionally, LGAs are tasked with environmental sanitation and waste management, which includes regulating waste disposal, maintaining drainage systems, and controlling pollution at the community level, crucial for preventing local health hazards and maintaining public safety. Furthermore, LGAs act as mediators in community disputes, particularly when industrial developers encroach on local land or when environmental degradation from industrial activities negatively impacts surrounding areas. They play an important role in conflict resolution, ensuring that community concerns are addressed, and environmental rights are upheld. Despite their pivotal role, LGAs face significant challenges such as limited resources, insufficient technical capacity, and weak enforcement of regulations, which undermine their ability to effectively manage land use and environmental protection<sup>113</sup>. Strengthening local governance structures, increasing funding, and enhancing intergovernmental coordination would help improve the efficacy of LGAs in managing environmental governance and ensuring sustainable land use at the grassroots level.

### **3.2.5. INTERNATIONAL AND REGIONAL BODIES**

Nigeria, as a signatory to several international and regional agreements, operates within a broader global environmental governance framework, shaping its policies on sustainable land use and environmental protection. Among these agreements, the Stockholm Declaration (1972)

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<sup>111</sup> Awewomom J and others, “Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management” (2024) 2 Discover Environment <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

<sup>112</sup> Rowland G, “Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies,” *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>113</sup> Ordinioha B and Brisibe S, “The Human Health Implications of Crude Oil Spills in the Niger Delta, Nigeria: An Interpretation of Published Studies” (2013) 54 *Nigerian Medical Journal* 10 <<https://doi.org/10.4103/0300-1652.108887>> accessed January 7, 2025.

was pivotal in recognizing the right to a healthy environment as a fundamental human right, laying the foundation for environmental justice and sustainability<sup>114</sup>. Further strengthening this commitment, Nigeria aligns its policies with the United Nations Sustainable Development Goals (SDGs), particularly Goal 13 (Climate Action) and Goal 15 (Life on Land), both of which emphasize sustainable land use, biodiversity conservation, and climate resilience. At the regional level, the African Charter on Human and Peoples' Rights provides a legal basis for environmental justice in Nigeria, with Article 24 explicitly recognizing the right to a satisfactory environment, reinforcing the need for legal protections against environmental degradation. Additionally, Nigeria is a participant in the ECOWAS Environmental Policy, which promotes regional cooperation on trans-boundary environmental challenges, including desertification, deforestation, and water resource management, issues that are particularly pressing in Nigeria's northern regions<sup>115</sup>. Despite these commitments, implementation gaps, weak enforcement, and lack of political will continue to hinder the full realization of these environmental obligations<sup>116</sup>. Strengthening domestic legislation, integrating international standards into national policies, and enhancing institutional capacity are crucial for Nigeria to effectively uphold its international environmental commitments and ensure sustainable industrial land use.

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<sup>114</sup> "Deforestation in the Amazon Rainforest: Causes, Effects, Solutions" (*DGB Group*, December 9, 2024) <<https://www.green.earth/blog/deforestation-in-the-amazon-rainforest-causes-effects-solutions>> accessed January 7, 2025.

<sup>115</sup> Opukri, C, Ibaba, Samuel and Ibaba, Ibaba, "Oil Induced Environmental Degradation and Internal Population Displacement in The Nigeria's Niger Delta" (2008) 10 *Journal of Sustainable Development in Africa*. <[https://www.researchgate.net/publication/267549659\\_OIL\\_INDUCED\\_ENVIRONMENTAL\\_DEGRADATION\\_AND\\_INTERNAL\\_POPULATION\\_DISPLACEMENT\\_IN\\_THE\\_NIGERIA'S\\_NIGER\\_DELTA](https://www.researchgate.net/publication/267549659_OIL_INDUCED_ENVIRONMENTAL_DEGRADATION_AND_INTERNAL_POPULATION_DISPLACEMENT_IN_THE_NIGERIA'S_NIGER_DELTA)> accessed January 7, 2025.

<sup>116</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 *Discover Environment* <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

### **3.3. CHALLENGES IN THE LEGAL AND INSTITUTIONAL FRAMEWORKS**

Despite the existence of multiple laws and institutions regulating land use and environmental protection in Nigeria, significant challenges undermine their effectiveness<sup>117</sup>. These challenges range from overlapping and inconsistent legal provisions to political interference, low public awareness, and limited resources for regulatory agencies. This section critically examines these issues and their implications for sustainable land use and environmental governance.

#### **3.3.1. OVERLAPPING AND INCONSISTENT LEGAL PROVISIONS**

Nigeria's environmental regulatory landscape is characterized by fragmented and sometimes contradictory laws, creating jurisdictional conflicts and enforcement challenges among regulatory bodies. The Land Use Act, 1978, the Environmental Impact Assessment Act, 1992, and the National Environmental Standards and Regulations Enforcement Agency Act, 2007 often overlap in their mandates, leading to conflicts in regulatory authority and gaps in environmental protection. One of the most critical issues is jurisdictional overlap, where NESREA is tasked with environmental regulation, yet its jurisdiction excludes the oil and gas sector, which falls under the Department of Petroleum Resources (DPR). This limitation creates regulatory blind spots, particularly in the Niger Delta, where oil spills, gas flaring, and environmental degradation persist with little accountability. Additionally, contradictory statutory mandates further weaken enforcement, while the Environmental Impact Assessment Act mandates environmental impact assessments for major projects, State and local governments frequently approve industrial developments without strict compliance, allowing unregulated industrial expansion and unchecked environmental harm. In an attempt to resolve

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<sup>117</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

such conflicts, the judiciary has intervened, as seen in *Jonah Gbemre v. Shell Petroleum Development Company*<sup>118</sup>, where the Federal High Court ruled that gas flaring violated the constitutional right to life and dignity. However, despite favourable judicial precedents, institutional paralysis, lack of political will, and weak enforcement mechanisms continue to undermine effective environmental governance<sup>119</sup>. Without clearer statutory delineation of responsibilities, stronger enforcement mechanisms, and greater inter-agency collaboration, Nigeria's environmental regulatory framework will remain fragmented, leaving critical ecological issues unaddressed.

### **3.3.2. TENSIONS BETWEEN INDUSTRIAL DEVELOPMENT AND ENVIRONMENTAL CONSERVATION**

The longstanding tension between economic growth and environmental sustainability is particularly evident in Nigeria, where industrialization is frequently prioritized over environmental protection, often with devastating consequences. Nowhere is this conflict more pronounced than in oil exploration in the Niger Delta, a sector that significantly contributes to Nigeria's GDP and foreign exchange earnings, yet remains a major driver of environmental degradation<sup>120</sup>. Oil spills, gas flaring, and deforestation have led to polluted waterways, loss of biodiversity, and displacement of local communities, creating a cycle of ecological damage and socio-economic hardship<sup>121</sup>. Similarly, rapid industrial expansion in urban centres like Lagos and Ogun States has resulted in unplanned urban sprawl, leading to deforestation, destruction of natural habitats, and loss of biodiversity. While legal principles and judicial precedents offer

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<sup>118</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

<sup>119</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>120</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>121</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 *Discover Environment* <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

theoretical protection, enforcement remains weak. The principle of *sic utere tuo ut alienum non laedas*<sup>122</sup>, should guide industrial land use and environmental management, ensuring that economic activities do not infringe upon the rights of others to a healthy environment. However, as seen in *Shell Petroleum Development Co. v. Chief G.B.A Tiebo VII*<sup>123</sup>, where the Supreme Court awarded damages for environmental harm but failed to mandate preventive measures, the legal system often provides post-damage remedies rather than proactive enforcement. The persistence of weak regulatory enforcement, political interference, and corporate impunity continues to undermine environmental sustainability, highlighting the urgent need for stronger legal enforcement, stricter industrial regulations, and a more proactive judicial approach to environmental justice in Nigeria.

### **3.3.3. LACK OF CAPACITY AND RESOURCES FOR REGULATORY AGENCIES**

Regulatory agencies such as NESREA, the Federal Ministry of Environment, and State environmental ministries play a crucial role in enforcing environmental laws, yet they remain severely underfunded and understaffed, limiting their effectiveness. One of the most pressing challenges is limited technical expertise, as many agencies lack specialised personnel with the necessary scientific, legal, and technical knowledge to conduct environmental monitoring and enforcement activities. This deficiency makes it difficult to assess industrial emissions, detect violations, and implement corrective measures. Additionally, insufficient funding further hampers regulatory efforts, as these agencies rely primarily on government allocations, which are often inadequate for large-scale enforcement operations<sup>124</sup>. As a result, the failure to monitor industrial emissions, enforce waste disposal regulations, and conduct environmental

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<sup>122</sup> Use your property so as not to harm another.

<sup>123</sup> *Shell Petroleum Development Co. v. Chief G.B.A Tiebo VII*, (1995) 5 NWLR (Pt. 397) 586.

<sup>124</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

impact assessments (EIAs) persists, leaving many industrial activities unchecked. Even when NESREA or other regulatory bodies identify violations, their ability to impose and collect fines effectively is hindered by resource constraints, reducing their deterrent effect on environmental offenders. The lack of adequate financial and human resources means that many environmental regulations exist only on paper, with weak implementation allowing industrial pollution and environmental degradation to continue unchecked. Addressing these challenges requires greater investment in regulatory capacity, increased funding for enforcement agencies, and the recruitment of skilled environmental professionals, ensuring that environmental laws are not merely symbolic but actively enforced to protect ecosystems and public health.

#### **3.3.4. CORRUPTION AND POLITICAL INTERFERENCE IN LAND USE AND ENVIRONMENTAL MANAGEMENT**

Corruption remains one of the most formidable obstacles to effective environmental governance in Nigeria, undermining regulatory frameworks and allowing industrial pollution and unsustainable land use to persist unchecked<sup>125</sup>. One of its most glaring manifestations is illegal land allocations, where public officials circumvent due process and allocate land for industrial purposes without conducting proper Environmental Impact Assessments (EIAs), and prioritizing personal gain over environmental sustainability. Additionally, regulatory capture is rampant, as powerful industrial players exert undue influence over regulatory agencies, ensuring that environmental laws are either weakly enforced or completely ignored. This problem is further compounded by bribery and weak oversight, where companies pay off regulators to bypass environmental compliance requirements, enabling unchecked pollution, deforestation, and hazardous waste dumping. While the judiciary has at times intervened to

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<sup>125</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

curb corruption, judicial independence remains fragile. In *Amadi v. NNPC*<sup>126</sup>, the Supreme Court cautioned against statutory provisions that disproportionately protect corporate interests at the expense of citizens' rights, highlighting the imbalance in environmental justice enforcement. However, the Courts often lack the institutional support needed to hold violators accountable, as influences extend into legal and regulatory processes, weakening judicial oversight and enforcement mechanisms. Without stronger anti-corruption measures, greater transparency in land allocations, and increased judicial independence, environmental governance in Nigeria will remain compromised, allowing industrial interests to supersede environmental protection and community rights.

### **3.3.5. LOW AWARENESS OF LEGAL RIGHTS AND OBLIGATIONS AMONG STAKEHOLDERS**

A significant barrier to effective environmental governance in Nigeria is the widespread lack of awareness among citizens, particularly in rural and marginalized communities, regarding their environmental rights and legal remedies. This low awareness has far-reaching consequences, as many communities affected by industrial pollution, especially in the Niger Delta, lack the legal knowledge or resources to challenge environmental degradation caused by oil spills, gas flaring, and deforestation<sup>127</sup>. Without understanding their rights, these communities are unable to demand accountability from corporations or government agencies, allowing environmental violations to persist unchecked. Furthermore, there is limited use of legal avenues to enforce environmental laws, as few individuals and NGOs pursue public

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<sup>126</sup> *Amadi v. NNPC*, (1995) 5 NWLR (Pt. 397) 586.

<sup>127</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 Discover Environment <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

interest litigation to hold polluters accountable<sup>128</sup>. Despite Nigeria's commitment to international human rights frameworks, such as the African Charter on Human and Peoples' Rights, its provisions on environmental justice remain underutilized due to limited legal literacy and access to legal representation. Addressing this challenge requires strengthening environmental education in schools, communities, and public institutions to ensure that citizens understand their rights and the mechanisms available to enforce them. Additionally, empowering NGOs and legal aid organizations to provide legal assistance, advocacy, and representation to affected communities is crucial in bridging the gap between environmental harm and legal accountability. Without these interventions, industrial polluters will continue to exploit public ignorance, perpetuating environmental injustice and ecological destruction across Nigeria.

### **3.3.6. LIMITED PUBLIC PARTICIPATION IN DECISION-MAKING PROCESSES**

Public participation is a fundamental pillar of environmental democracy, yet in Nigeria, decision-making processes are largely dominated by government agencies and private developers, leaving affected communities with little to no influence over land use and environmental policies. One of the key barriers to meaningful public involvement is the exclusion from Environmental Impact Assessments (EIAs), as many EIAs are conducted merely as formalities, often rubber-stamped without genuine public input. This lack of transparency undermines the preventive function of EIAs, allowing environmentally harmful industrial projects to proceed without adequate scrutiny or community consent. Similarly, land allocations for industrial purposes frequently occur without consulting local communities, leading to land disputes, displacement, and environmental conflicts. This failure to engage

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<sup>128</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

affected populations fuels tensions between industrial developers and host communities, particularly in resource-rich areas like the Niger Delta, where oil exploration and industrialization have resulted in widespread environmental degradation and socio-economic hardships. Addressing these issues requires stronger legal mandates for public consultation, including amendments to environmental laws that explicitly require community participation in land use decisions. Additionally, enhancing civil society engagement is crucial, as NGOs and advocacy groups can play a significant role in bridging the gap between government policies and community interests, ensuring that environmental governance is more inclusive and transparent. Without greater public participation and institutional accountability, industrial expansion in Nigeria will continue to prioritize economic interests over environmental sustainability and community rights, deepening the crisis of environmental injustice and land use conflicts.

## CHAPTER FOUR

### ANALYSIS, COMPARISON AND DISCUSSION OF NON-LEGAL ISSUES

Land use for industrial purposes in Nigeria is not merely a question of legal frameworks and statutory obligations; it is deeply intertwined with socio-economic realities, environmental sustainability, cultural traditions, political dynamics, and public perception. This study dissects these non-legal dimensions, demonstrating how they shape, challenge, and sometimes override the effectiveness of the law in balancing property rights and environmental concerns.

#### 4.1. SOCIO-ECONOMIC ISSUES

At the heart of industrial land use is the economic argument: development brings jobs, infrastructure, and revenue<sup>129</sup>. Yet, the reality on the ground often reflects a paradox, while large industries such as Dangote Refinery in Lagos contribute significantly to Nigeria's GDP, communities in the vicinity frequently suffer displacement, loss of livelihoods, and gentrification without adequate compensation<sup>130</sup>. Judicial decisions such as *Oronto Douglas v. Shell Petroleum Development Company*<sup>131</sup> highlight the tension between industrial expansion and community welfare, revealing the socio-economic costs of weak enforcement of environmental and property laws<sup>132</sup>. Land is not merely a physical asset; it is an economic engine, a source of livelihood, and often, the soul of a community<sup>133</sup>. In Nigeria, the intersection of property rights and environmental law is deeply embedded in socio-economic realities. The

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<sup>129</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>130</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>131</sup> *Oronto Douglas v. Shell Petroleum Development Company* (1999) 2 NWLR (Pt. 591) 466.

<sup>132</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 Discover Environment <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

<sup>133</sup> Adebayo T, "Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News" (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-cfca3bfd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

industrial use of land, whether for factories, refineries, or special economic zones, can bring about economic transformation, but it also exacerbates inequalities, disrupts informal land markets, and often displaces vulnerable populations without adequate compensation<sup>134</sup>. This study critically analyses these socio-economic dimensions by examining economic development, socio-economic inequality, and informal land markets, using real-life instances and judicial pronouncements to illustrate the broader implications.

#### 4.1.1. ECONOMIC DEVELOPMENT

Industrial land use is often justified on the grounds of economic development. Large-scale industries contribute to GDP growth, provide employment, and attract foreign investment. For instance, the establishment of the Lekki Free Trade Zone in Lagos was designed to be a hub for manufacturing, logistics, and commerce, promising to boost Nigeria's economy. Similarly, the Dangote Refinery, constructed on prime industrial land in Lagos, is expected to reduce Nigeria's dependence on imported petroleum products.

However, economic growth does not always translate into equitable prosperity. While industries generate revenue and create jobs, these benefits are often unevenly distributed. Local communities whose lands are acquired for industrial purposes may not be the primary beneficiaries<sup>135</sup>. Instead, multinational corporations and elite business interests typically reap the rewards. In the case of *Oronto Douglas v. Shell Petroleum Development Company*<sup>136</sup>, the plaintiff, an environmental activist, challenged Shell's operations in the Niger Delta, arguing that the company's activities led to environmental degradation without corresponding socio-economic benefits for the host communities. The Court acknowledged the devastating impact

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<sup>134</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>135</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>136</sup> *Oronto Douglas v. Shell Petroleum Development Company* (1999) 2 NWLR (Pt. 591) 466.

of oil exploration on local livelihoods but failed to provide an enforceable remedy, reflecting the broader challenge of balancing economic interests with social justice.

#### 4.1.2. SOCIO-ECONOMIC INEQUALITY

One of the most pressing socio-economic issues arising from industrial land use is the displacement of local communities. The government, empowered by the **Land Use Act** often acquires land under the guise of “public interest” without adequately compensating affected individuals. In many cases, the compensation provided is either inadequate or delayed, leading to widespread economic disenfranchisement<sup>137</sup>.

A notable example is the forced displacement of the Makoko community in Lagos<sup>138</sup>. Makoko, a sprawling informal settlement, has faced repeated evictions to make way for urban and industrial development projects<sup>139</sup>. While the government justified these actions as necessary for modernization, thousands of residents lost their homes and sources of income without proper resettlement plans<sup>140</sup>. Similarly, the case of *Gbemre v. Shell Petroleum Development Company*<sup>141</sup> highlighted the plight of communities in the Niger Delta, where oil exploration led to environmental degradation, loss of agricultural land, and economic hardship. The Courts, however, have often been reluctant to hold multinational corporations and the government accountable for these socio-economic injustices.

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<sup>137</sup> Opukri, C, Ibaba, Samuel and Ibaba, Ibaba, “Oil Induced Environmental Degradation and Internal Population Displacement in The Nigeria’s Niger Delta” (2008) 10 *Journal of Sustainable Development in Africa*. <[https://www.researchgate.net/publication/267549659\\_OIL\\_INDUCED\\_ENVIRONMENTAL\\_DEGRADATION\\_AND\\_INTERNAL\\_POPULATION\\_DISPLACEMENT\\_IN\\_THE\\_NIGERIA'S\\_NIGER\\_DELTA](https://www.researchgate.net/publication/267549659_OIL_INDUCED_ENVIRONMENTAL_DEGRADATION_AND_INTERNAL_POPULATION_DISPLACEMENT_IN_THE_NIGERIA'S_NIGER_DELTA)> accessed January 7, 2025.

<sup>138</sup> Rowland G, “Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies,” *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>139</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>140</sup> Awewomom J and others, “Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management” (2024) 2 *Discover Environment* <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

<sup>141</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

The inequality extends beyond displacement. Industrial projects often lead to the influx of skilled labour from other regions, side-lining local populations who lack the necessary technical skills. The result is a paradox where industries thrive in a region, yet local residents remain impoverished. This was evident in the case of the Okpai Power Plant in Delta State<sup>142</sup>, where employment opportunities were largely given to non-indigenous workers, leaving the host communities in perpetual economic marginalization.

#### 4.1.3. INFORMAL LAND MARKETS

Another critical but often overlooked aspect of industrial land use in Nigeria is the role of informal land markets. In many urban and peri-urban areas, land transactions occur outside formal regulatory frameworks. These informal markets serve as a lifeline for low-income earners who cannot afford land through official channels. However, industrial expansion disrupts these markets, often rendering vulnerable groups landless<sup>143</sup>.

For example, the rapid industrialization of Ogun State has led to speculative land grabbing by influential elites. Traditional landowners, who previously controlled communal lands, have been side-lined as powerful individuals acquire vast tracts of land for resale at exorbitant prices. The case of *Adole v. Gwar*<sup>144</sup> reflects this issue, as the Supreme Court recognized the challenges of land ownership disputes exacerbated by informal transactions. While the judgment reinforced the need for clear property rights, it did little to address the socio-economic realities of land dispossession caused by industrial expansion.

Moreover, informal settlements that exist around industrial zones often lack basic infrastructure and legal protection. Residents of such areas are at constant risk of eviction, with

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<sup>142</sup> Rowland G, “Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies,” *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>143</sup> “Understanding the Land Use Act in Nigeria: A Comprehensive Guide” (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>144</sup> *Adole v. Gwar* (2003) 3 NWLR (Pt. 516) 224.

no legal recourse<sup>145</sup>. The demolition of Otodo Gbame, a waterfront settlement in Lagos, is a stark example of how informal land markets are destabilized by industrial development. Despite Court rulings favouring the residents, the government proceeded with demolitions, prioritizing commercial interests over human rights<sup>146</sup>.

#### 4.2. ENVIRONMENTAL AND SUSTAINABILITY ISSUES

The environmental implications of industrial land use are profound. Oil spills in the Niger Delta, pollution from cement factories in Ogun State, and deforestation caused by mining in Zamfara illustrate the high environmental toll of industrialization. Courts have attempted to address these issues, as seen in *Gbemre v. Shell Petroleum Development Company*<sup>147</sup>, where the Court recognized the environmental rights of local communities. However, enforcement remains a challenge due to corruption, weak regulatory bodies, and conflicting governmental interests. Industrial land use in Nigeria presents a complex relationship between economic growth and environmental sustainability. While industries contribute to national development, they often do so at an immense environmental cost<sup>148</sup>. Land, once abundant and fertile, is now scarred by pollution, deforestation, and the unregulated exploitation of natural resources. Industrial expansion has also exacerbated climate change, threatening ecosystems and livelihoods. At the core of this challenge lies the need to reconcile industrial development with sustainability principles, particularly within the framework of the United Nations Sustainable

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<sup>145</sup> Opukri, C, Ibaba, Samuel and Ibaba, Ibaba, “Oil Induced Environmental Degradation and Internal Population Displacement in The Nigeria’s Niger Delta” (2008) 10 *Journal of Sustainable Development in Africa*. <[https://www.researchgate.net/publication/267549659\\_OIL\\_INDUCED\\_ENVIRONMENTAL\\_DEGRADATION\\_AND\\_INTERNAL\\_POPULATION\\_DISPLACEMENT\\_IN\\_THE\\_NIGERIA'S\\_NIGER\\_DELTA](https://www.researchgate.net/publication/267549659_OIL_INDUCED_ENVIRONMENTAL_DEGRADATION_AND_INTERNAL_POPULATION_DISPLACEMENT_IN_THE_NIGERIA'S_NIGER_DELTA)> accessed January 7, 2025.

<sup>146</sup> Refworld - UNHCR’s Global Law and Policy Database, “The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria’s Oil Producing Communities” (*Refworld*, February 12, 2024) <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed February 3, 2025.

<sup>147</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

<sup>148</sup> Adebayo T, “Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News” (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-cfa3bfdd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

Development Goals (SDGs)<sup>149</sup>. This section critically examines environmental and sustainability issues arising from industrial land use, focusing on three key aspects: environmental degradation, climate change, and the Sustainable Development Goals (SDGs). It highlights the urgent need for legal, policy, and institutional reforms to address the environmental challenges posed by industrial land use in Nigeria.

#### 4.2.1. ENVIRONMENTAL DEGRADATION

Environmental degradation is the most immediate and visible consequence of industrial land use in Nigeria. From oil spills in the Niger Delta to air pollution in industrial clusters such as Ogun and Lagos States, the impact is both severe and far-reaching. One of the well-documented environmental disasters in Nigeria is the case of *Gbemre v. Shell Petroleum Development Company*<sup>150</sup>, where the Federal High Court ruled in favour of the plaintiff, holding that gas flaring violated the fundamental right to a clean and healthy environment. Despite the ruling, oil spills and gas flaring continue to devastate communities. The Niger Delta, home to some of the world's largest oil reserves, has suffered widespread ecological destruction due to decades of industrial exploitation<sup>151</sup>. In 2011, the United Nations Environment Programme (UNEP) released a report on Ogoniland<sup>152</sup>, revealing that groundwater in some areas was contaminated with benzene at levels 900 times above the World Health Organization (WHO) safety standards<sup>153</sup>. The effects are devastating, farmers lose

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<sup>149</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 *Discover Environment* <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

<sup>150</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

<sup>151</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>152</sup> Refworld - UNHCR's Global Law and Policy Database, "The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities" (*Refworld*, February 12, 2024) <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed February 3, 2025.

<sup>153</sup> Adebayo T, "Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News" (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-cfca3bfdd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

arable land due to soil contamination, while fisher folk face declining catches as rivers and streams are poisoned. The situation mirrors the plight of the Ecuadorian Amazon in *Aguinda v. Texaco*<sup>154</sup>, where indigenous communities sued Texaco (now Chevron) for decades of oil pollution. The parallels between these cases highlight how corporate negligence, coupled with weak enforcement of environmental regulations, has left host communities struggling to survive.

Beyond oil pollution, industrial land use has also driven widespread deforestation. Nigeria loses approximately 350,000 to 400,000 hectares of forest annually, ranking among the highest deforestation rates globally<sup>155</sup>. Large-scale industrial agriculture, logging, and urban expansion have led to the destruction of primary forests, with dire consequences for biodiversity. The destruction of the Cross River rainforest is a case in point<sup>156</sup>. Home to endangered species such as the Cross River gorilla, the forest has been steadily cleared to make way for industrial plantations and infrastructure projects. The legal framework for environmental protection, such as the Environmental Impact Assessment Act mandates proper environmental evaluation before industrial projects commence<sup>157</sup>. However, enforcement is weak, and environmental impact assessments are often mere formalities.

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<sup>154</sup> *Aguinda v. Texaco* 2021

<sup>155</sup> Refworld - UNHCR's Global Law and Policy Database, "The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities" (*Refworld*, February 12, 2024) <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed February 3, 2025.

<sup>156</sup> Opukri, C, Ibaba, Samuel and Ibaba, Ibaba, "Oil Induced Environmental Degradation and Internal Population Displacement in The Nigeria's Niger Delta" (2008) 10 *Journal of Sustainable Development in Africa*. <[https://www.researchgate.net/publication/267549659\\_OIL\\_INDUCED\\_ENVIRONMENTAL\\_DEGRADATION\\_AND\\_INTERNAL\\_POPULATION\\_DISPLACEMENT\\_IN\\_THE\\_NIGERIA'S\\_NIGER\\_DELTA](https://www.researchgate.net/publication/267549659_OIL_INDUCED_ENVIRONMENTAL_DEGRADATION_AND_INTERNAL_POPULATION_DISPLACEMENT_IN_THE_NIGERIA'S_NIGER_DELTA)> accessed January 7, 2025.

<sup>157</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 *Discover Environment* <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

#### 4.2.2. CLIMATE CHANGE

Climate change is no longer a distant threat, it is a present reality. Rising temperatures, erratic rainfall patterns, and extreme weather events are already affecting millions of Nigerians. Industrial land use contributes to this crisis through emissions from factories, deforestation, and excessive energy consumption. Industrial zones such as Agbara in Ogun State and Nnewi in Anambra are major contributors to greenhouse gas emissions. In *Centre for Oil Pollution Watch v. NNPC*<sup>158</sup>, the Supreme Court of Nigeria recognized the duty of oil companies to prevent environmental harm. However, Nigeria remains one of the world's top gas-flaring nations, with flaring contributing significantly to carbon emissions and global warming<sup>159</sup>. The effects of climate change are already visible. Coastal erosion in Lagos threatens communities such as Okun Alfa, where rising sea levels and unchecked sand mining have displaced thousands. Farmers in the North are grappling with desertification, forcing mass migration and escalating conflicts between herders and farmers<sup>160</sup>.

Another major concern is industrial waste management. The indiscriminate dumping of hazardous waste has led to serious health and environmental crises. The infamous Koko toxic waste dump scandal in 1987, where hazardous waste was illegally imported from Italy and dumped in Delta State, remains one of Nigeria's worst environmental disasters. While stricter regulations have since been introduced, industrial waste disposal remains largely unregulated, especially in informal industrial clusters. Air pollution is another critical issue. According to a 2021 report<sup>161</sup>, Lagos ranks among the most polluted cities in Africa due to

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<sup>158</sup> *Centre for Oil Pollution Watch v. NNPC* (2019) 5 NWLR (Pt. 1666) 518.

<sup>159</sup> Adebayo T, "Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News" (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-ccfa3bfdd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

<sup>160</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>161</sup> Refworld - UNHCR's Global Law and Policy Database, "The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities" (*Refworld*, February 12, 2024) <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed February 3, 2025.

industrial emissions and vehicular pollution. Respiratory diseases are rising, particularly among children and the elderly, as air quality deteriorates due to unregulated industrial activity.

#### **4.2.3. SUSTAINABLE DEVELOPMENT GOALS (SDGS)**

The Sustainable Development Goals (SDGs) provide a global blueprint for balancing industrial growth with environmental protection, yet Nigeria's industrial land use practices often contradict these objectives. SDG 13 (Climate Action) calls for urgent measures to combat climate change, but Nigeria's persistent gas flaring and industrial emissions undermine this goal, highlighting the need for stricter enforcement of environmental laws. Similarly, SDG 15 (Life on Land) aims to halt deforestation and protect biodiversity; yet industrial deforestation and land degradation continue unchecked, posing serious ecological threats. In the same vein, SDG 6 (Clean Water and Sanitation) seeks to ensure universal access to clean water, but industrial pollution, especially in the Niger Delta, has contaminated vital water sources, endangering millions of lives. Aligning Nigeria's industrial activities with these SDGs requires robust legal reforms and policy implementation. Countries like Norway have successfully curbed carbon emissions through heavy penalties on polluters, while Germany's renewable energy policies demonstrate how sustainability can be integrated into industrial expansion<sup>162</sup>. For Nigeria to achieve true industrial progress, it must adopt similar strategies, ensuring that economic development does not come at the cost of environmental degradation.

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<sup>162</sup> Opukri, C, Ibaba, Samuel and Ibaba, Ibaba, "Oil Induced Environmental Degradation and Internal Population Displacement in The Nigeria's Niger Delta" (2008) 10 *Journal of Sustainable Development in Africa*.  
<[https://www.researchgate.net/publication/267549659\\_OIL\\_INDUCED\\_ENVIRONMENTAL\\_DEGRADATION\\_AND\\_INTERNAL\\_POPULATION\\_DISPLACEMENT\\_IN\\_THE\\_NIGERIA'S\\_NIGER\\_DELTA](https://www.researchgate.net/publication/267549659_OIL_INDUCED_ENVIRONMENTAL_DEGRADATION_AND_INTERNAL_POPULATION_DISPLACEMENT_IN_THE_NIGERIA'S_NIGER_DELTA)> accessed January 7, 2025.

### 4.3. CULTURAL AND ETHICAL ISSUES

Industrial development often clashes with indigenous cultural beliefs and land ownership traditions. In many Nigerian communities, land is seen not just as property but as heritage, passed down through generations. The displacement of communities for industrial projects, such as the Lekki Free Trade Zone, raises ethical concerns about the erosion of cultural identity<sup>163</sup>. Ethical arguments also emerge in cases of environmental injustice, where vulnerable groups bear the brunt of industrial pollution while reaping little economic benefit<sup>164</sup>. Land is more than just a physical space; it is deeply tied to identity, heritage, and communal existence. In Nigeria, land is not merely an economic asset but a repository of cultural history, ancestral lineage, and spiritual significance<sup>165</sup>. However, the industrialization of land has increasingly posed threats to indigenous land rights and ethical land use, often leading to the erosion of traditional practices and raising moral concerns about displacement and environmental destruction. This section critically examines the cultural and ethical implications of industrial land use in Nigeria by focusing on two key aspects: indigenous land rights and ethical considerations.

#### 4.3.1. INDIGENOUS LAND RIGHTS

Indigenous communities in Nigeria have long held land under customary tenure systems, where land is viewed as a communal trust passed down through generations<sup>166</sup>. Unlike

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<sup>163</sup> Awewomom J and others, “Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management” (2024) 2 Discover Environment <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

<sup>164</sup> Refworld - UNHCR’s Global Law and Policy Database, “The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria’s Oil Producing Communities” (*Refworld*, February 12, 2024) <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed February 3, 2025.

<sup>165</sup> Adebayo T, “Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News” (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-ccfa3bfdd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

<sup>166</sup> Ordinioha B and Brisibe S, “The Human Health Implications of Crude Oil Spills in the Niger Delta, Nigeria: An Interpretation of Published Studies” (2013) 54 *Nigerian Medical Journal* 10 <<https://doi.org/10.4103/0300-1652.108887>> accessed January 7, 2025.

statutory land ownership, which is recognized by formal legal documents, indigenous land rights are often based on oral agreements, ancestral claims, and cultural traditions<sup>167</sup>. However, industrial expansion, often facilitated by the Nigerian government through the Land Use Act of 1978, has frequently disregarded these traditional claims, leading to land dispossession, cultural alienation, and socio-economic hardship<sup>168</sup>. The Land Use Act is one of the most controversial legal instruments governing land ownership in Nigeria. While it aimed to streamline land administration and prevent speculative land grabbing, it has largely weakened indigenous land rights by vesting control of all land in State governors<sup>169</sup>. As a result, many traditional communities have lost their lands to industrial projects without adequate consultation or compensation<sup>170</sup>. A clear example of this is the case of Bakassi Peninsula, where thousands of indigenous Efik and Ibibio people were displaced following the ceding of the land to Cameroon. The ruling in *Attorney-General of Rivers State v. Attorney-General of Akwa Ibom State*<sup>171</sup> highlighted how legal frameworks often disregard historical indigenous claims, leaving communities without protection. Similarly, the case of *Madukolu v. Nkemdilim*<sup>172</sup> established the principle that Courts must recognize customary land tenure where applicable. However, despite such judicial recognition, enforcement remains weak, and industrial projects continue to override indigenous land claims.

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<sup>167</sup> Refworld - UNHCR's Global Law and Policy Database, "The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities" (*Refworld*, February 12, 2024) <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed February 3, 2025.

<sup>168</sup> Awewomom J and others, "Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management" (2024) 2 *Discover Environment* <<https://doi.org/10.1007/s44274-024-00033-5>> accessed January 7, 2025.

<sup>169</sup> Opukri, C, Ibaba, Samuel and Ibaba, Ibaba, "Oil Induced Environmental Degradation and Internal Population Displacement in The Nigeria's Niger Delta" (2008) 10 *Journal of Sustainable Development in Africa*. <[https://www.researchgate.net/publication/267549659\\_OIL\\_INDUCED\\_ENVIRONMENTAL\\_DEGRADATION\\_AND\\_INTERNAL\\_POPULATION\\_DISPLACEMENT\\_IN\\_THE\\_NIGERIA'S\\_NIGER\\_DELTA](https://www.researchgate.net/publication/267549659_OIL_INDUCED_ENVIRONMENTAL_DEGRADATION_AND_INTERNAL_POPULATION_DISPLACEMENT_IN_THE_NIGERIA'S_NIGER_DELTA)> accessed January 7, 2025.

<sup>170</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>171</sup> *Attorney-General of Rivers State v. Attorney-General of Akwa Ibom State* (2011) 8 NWLR (Pt. 1248) 31.

<sup>172</sup> *Madukolu v. Nkemdilim* [F.S.C. 344/1960] (1962) NGSC 4.

Industrial expansion not only displaces people physically but also erodes cultural identities. In many parts of Nigeria, traditional shrines, burial grounds, and ancestral lands have been destroyed to make way for industries<sup>173</sup>. The demolition of the Otodo Gbame fishing settlement in Lagos is a stark example of how industrialization has displaced indigenous communities without due regard for their cultural heritage<sup>174</sup>. In the Niger Delta, the oil industry has led to the destruction of sacred groves and community landmarks<sup>175</sup>. The Urhobo and Ijaw people, for example, have seen their sacred lands polluted by oil spills, disrupting cultural rituals that have been practiced for centuries<sup>176</sup>. The UN Declaration on the Rights of Indigenous Peoples<sup>177</sup> recognizes the need to protect indigenous lands from industrial encroachment, yet Nigeria's legal framework offers little concrete enforcement.

#### 4.3.2. ETHICAL CONSIDERATIONS

Beyond legal rights, the ethical dimensions of industrial land use raise profound questions about fairness, accountability, and social justice<sup>178</sup>. Industrial projects are often justified in the name of national progress, but who truly benefits? And at what cost? One of the most pressing ethical concerns is the forced displacement of communities without proper

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<sup>173</sup> Adebayo T, "Oil Spill from Shell Pipeline Fouls Farms and a River in a Long-Polluted Part of Nigeria | AP News" (*AP News*, June 26, 2023) <<https://apnews.com/article/nigeria-oil-spill-shell-niger-delta-ccfa3bfd04b840f765189cdc5d90d3d>> accessed January 7, 2025.

<sup>174</sup> Rowland G, "Air Pollution in the Niger Delta Area: Scope, Challenges and Remedies," *InTech eBooks* (2011) <<https://www.intechopen.com/chapters/18639>> accessed January 7, 2025.

<sup>175</sup> "Understanding the Land Use Act in Nigeria: A Comprehensive Guide" (*Trusted Law Advisor*, September 26, 2024) <<https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/>> accessed February 3, 2025.

<sup>176</sup> "Deforestation in the Amazon Rainforest: Causes, Effects, Solutions" (*DGB Group*, December 9, 2024) <<https://www.green.earth/blog/deforestation-in-the-amazon-rainforest-causes-effects-solutions>> accessed January 7, 2025.

<sup>177</sup> Refworld - UNHCR's Global Law and Policy Database, "The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities" (*Refworld*, February 12, 2024) <<https://www.refworld.org/reference/countryrep/hrw/1999/en/97545>> accessed February 3, 2025.

<sup>178</sup> Opukri, C, Ibaba, Samuel and Ibaba, Ibaba, "Oil Induced Environmental Degradation and Internal Population Displacement in The Nigeria's Niger Delta" (2008) 10 *Journal of Sustainable Development in Africa*. <[https://www.researchgate.net/publication/267549659\\_OIL\\_INDUCED\\_ENVIRONMENTAL\\_DEGRADATION\\_AND\\_INTERNAL\\_POPULATION\\_DISPLACEMENT\\_IN\\_THE\\_NIGERIA'S\\_NIGER\\_DELTA](https://www.researchgate.net/publication/267549659_OIL_INDUCED_ENVIRONMENTAL_DEGRADATION_AND_INTERNAL_POPULATION_DISPLACEMENT_IN_THE_NIGERIA'S_NIGER_DELTA)> accessed January 7, 2025.

resettlement plans. While industries generate wealth, the original inhabitants of these lands often find themselves homeless and economically disenfranchised<sup>179</sup>. For example, the construction of the Dangote Refinery in Lagos led to the eviction of thousands of people from the Ibeju-Lekki area. While the refinery is expected to contribute significantly to Nigeria's economy, local fishermen and farmers lost their ancestral homes without fair compensation. This mirrors the case of *Social and Economic Rights Action Centre (SERAC) v. Nigeria*<sup>180</sup>, where the African Commission on Human and Peoples' Rights ruled that Nigeria violated the rights of the Ogoni people by allowing Shell's operations to destroy their environment and displace their communities<sup>181</sup>.

Another ethical concern is the exploitation of indigenous knowledge without due recognition or benefit-sharing. Many industrial projects extract resources from indigenous lands without reinvesting in local communities<sup>182</sup>. In agriculture, for example, multinational agribusinesses have patented traditional Nigerian crop varieties without compensating the indigenous farmers who cultivated them for generations<sup>183</sup>. The case of *Ken Saro-Wiwa v. The Federal Government of Nigeria*<sup>184</sup> exemplifies this exploitation, Saro-Wiwa, an environmental activist, led the Movement for the Survival of the Ogoni People (MOSOP) to protest against Shell's destruction of Ogoni land. His subsequent execution by the Nigerian government

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<sup>179</sup> "Deforestation in the Amazon Rainforest: Causes, Effects, Solutions" (*DGB Group*, December 9, 2024) <<https://www.green.earth/blog/deforestation-in-the-amazon-rainforest-causes-effects-solutions>> accessed January 7, 2025.

<sup>180</sup> *Social and Economic Rights Action Centre (SERAC) v. Nigeria* (2001) 155/96.

<sup>181</sup> Ordinioha B and Brisibe S, "The Human Health Implications of Crude Oil Spills in the Niger Delta, Nigeria: An Interpretation of Published Studies" (2013) 54 *Nigerian Medical Journal* 10 <<https://doi.org/10.4103/0300-1652.108887>> accessed January 7, 2025.

<sup>182</sup> Wale Ajai, "Archiving Environmental Protection through the Vehicle of Human Rights: Some Conceptual Legal and Third Worlds Problems" *University of Benin Law Journal (UB.L.J)* (Vol.2 issue 1 1995) 41-48.

<sup>183</sup> Aniefiok Okposin, "Environmental Rights in Nigeria: Recognition and Enforcement Challenges" (*ResearchGate*, June 10, 2023).

<sup>184</sup> *Ken Saro-Wiwa v. The Federal Government of Nigeria Communications* Nos. 137/94, 139/94, 154/96, and 161/97.

sparked international outrage, highlighting the ethical failures of industrial policies that prioritize profit over human rights<sup>185</sup>.

The ethical responsibility of corporations to protect the environment is another major issue. Many industries operate with little regard for environmental sustainability, polluting water bodies, destroying forests, and contributing to climate change<sup>186</sup>. The Bodo community's lawsuit against Shell in a UK Court resulted in a £55 million settlement for oil spill damages<sup>187</sup>. While this was a landmark victory, the fact that the Nigerian judicial system failed to hold Shell accountable highlights the broader issue of weak corporate ethics and regulatory enforcement.

#### 4.4. POLITICAL AND INSTITUTIONAL ISSUES

Politics plays a crucial role in determining how land is allocated and regulated for industrial purposes. Land acquisition by the government under the Land Use Act is often influenced by political patronage, leading to cases of land grabbing<sup>188</sup>. Institutional inefficiencies, including bureaucratic delays and regulatory overlap between agencies like the Federal Ministry of Environment and the Nigerian Investment Promotion Commission, further complicate the governance of industrial land use. The case of *Centre for Oil Pollution Watch v. NNPC*<sup>189</sup> demonstrated how political will, or its absence, can impact environmental justice and regulatory enforcement. Industrial land use in Nigeria is deeply entangled with political and institutional dynamics. While industrialization is often promoted as a path to economic progress, the policies guiding land allocation and environmental protection are heavily

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<sup>185</sup> Shelton DL, "Human Rights and the Environment: Substantive Rights" (*Scholarly Commons*) <[https://scholarship.law.gwu.edu/faculty\\_publications/283/](https://scholarship.law.gwu.edu/faculty_publications/283/)> accessed February 13, 2025.

<sup>186</sup> "An International Environmental Law Case Study: The Trail Smelter Arbitration" <<https://intlpollution.commons.gc.cuny.edu/an-international-environmental-law-case-study-the-trail-smelter-arbitration/>> accessed February 13, 2025.

<sup>187</sup> *The Bodo Community v. Shell* [2024] EWHC 276 (TCC).

<sup>188</sup> Mensah J, "Sustainable Development: Meaning, History, Principles, Pillars, and Implications for Human Action: Literature Review" (2019) 5 Cogent Social Sciences <<https://doi.org/10.1080/23311886.2019.1653531>> accessed February 13, 2025.

<sup>189</sup> *Centre for Oil Pollution Watch v. NNPC* (2019) 5 NWLR (Pt. 1666) 518.

influenced by governance structures, bureaucratic efficiency, and political interests. The success or failure of land use regulation depends not just on the law but on how political institutions implement and enforce it. However, Nigeria's political and institutional landscape has long been characterized by weak governance, corruption, and poor inter-agency coordination. Industrial land use policies are often formulated without adequate public participation, leading to decisions that favour private interests over public welfare. This section critically examines the political and institutional challenges associated with industrial land use in Nigeria, focusing on three key areas: governance and policy challenges, corruption and transparency, and institutional coordination. Through real-life cases and judicial pronouncements, it highlights how political and institutional dysfunctions undermine sustainable land use practices.

#### **4.4.1. GOVERNANCE AND POLICY CHALLENGES**

Governance refers to the structures and processes through which decisions about industrial land use are made and enforced. In Nigeria, land governance is primarily regulated by the Land Use Act, which vests all land in the hands of State governors. While the Act was intended to prevent land speculation and ensure equitable land distribution, in practice, it has created a system where governors exercise near-absolute discretion over land allocation.

Industrial land use decisions are often dictated by political considerations rather than sustainable planning. A striking example is the Lekki Free Trade Zone project, where thousands of indigenous landowners were displaced without adequate consultation or compensation. While the project is touted as a driver of economic growth, the lack of transparency in land allocation led to numerous disputes between local communities and the government. Similarly, the Apapa and Tin Can Island ports in Lagos, which are among the busiest in West Africa, suffer from poor planning and governance failures. The unregulated

expansion of industries and logistics companies around these ports has resulted in severe traffic congestion, air pollution, and environmental degradation. Despite multiple policies aimed at improving infrastructure, poor governance has hindered effective land-use planning.

Nigeria has a range of environmental laws, including the Environmental Impact Assessment Act and the National Environmental Standards and Regulations Enforcement Agency Act. These laws require industries to conduct environmental assessments before commencing operations. However, enforcement remains weak due to political interference and inadequate funding. In *Social and Economic Rights Action Centre (SERAC) v. Nigeria*<sup>190</sup>, the African Commission on Human and Peoples' Rights found the Nigerian government guilty of failing to regulate the oil industry, leading to severe environmental degradation in the Niger Delta. The case highlighted how governance failures have allowed multinational corporations to operate with little accountability, often to the detriment of local communities.

#### **4.4.2. CORRUPTION AND TRANSPARENCY**

Corruption is one of the greatest obstacles to effective land governance in Nigeria. The industrial land sector is plagued by bribery, opaque land deals, and regulatory capture, where industries use political influence to bypass environmental regulations.

In many instances, industrial land is allocated based on political patronage rather than public interest. State governors and local government officials often award prime industrial land to politically connected individuals or corporations without following due process. A notable example is the Centenary City Project in Abuja, a proposed smart city development that was marred by allegations of land-grabbing and lack of transparency. Critics argued that the project prioritized elite interests over local communities, reinforcing the perception that industrial land policies favour the wealthy and powerful.

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<sup>190</sup> *Social and Economic Rights Action Centre (SERAC) v. Nigeria* (2001) 155/96.

Multinational corporations often wield significant influence over land use policies, sometimes undermining regulatory agencies meant to oversee industrial expansion. The Ogoniland oil pollution crisis is a stark example of how corporate interests can override environmental regulations. Despite multiple reports, including the 2011 United Nations Environment Programme (UNEP) report, which called for urgent remediation, oil companies have been slow to act, with government agencies failing to enforce compliance. In *Centre for Pollution Watch v. NNPC*<sup>191</sup>, the Supreme Court of Nigeria emphasized the duty of corporations to prevent environmental harm. However, corruption within regulatory institutions has weakened enforcement, allowing industries to operate with impunity.

Transparency is essential for accountable governance, yet many industrial land deals are conducted behind closed doors. Public participation in environmental decision-making remains limited, despite provisions in the Freedom of Information Act that mandate access to public records. The case of the Eko Atlantic City Project in Lagos exemplifies this issue. While the project is promoted as a solution to coastal erosion and urban expansion, critics argue that it was approved without adequate consultation with local fishing communities who were displaced. The lack of transparency in such projects raises ethical concerns about whose interests are truly being served.

#### **4.4.3. INSTITUTIONAL COORDINATION**

Industrial land use governance in Nigeria involves multiple institutions, including the Federal Ministry of Environment, the Federal Ministry of Lands, the National Environmental Standards and Regulations Enforcement Agency, and State governments. However, the lack of coordination between these institutions has led to conflicting policies, inefficiencies, and jurisdictional disputes.

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<sup>191</sup> *Centre for Oil Pollution Watch v. NNPC* (2019) 5 NWLR (Pt. 1666) 518.

One major issue is the overlapping mandates of regulatory agencies. For instance, while NESREA is responsible for enforcing environmental regulations, the Department of Petroleum Resources (DPR) oversees oil industry compliance. In cases of industrial pollution, such as the recurring oil spills in the Niger Delta, affected communities often struggle to determine which agency is responsible for enforcement. This lack of coordination was evident in the *Bodo Community v. Shell*<sup>192</sup> case, where a UK Court awarded £55 million in damages to affected villagers. The lawsuit exposed the failure of Nigerian institutions to hold corporations accountable, forcing victims to seek justice in foreign Courts.

Nigeria lacks a comprehensive national land-use plan to guide industrial expansion. Many industrial estates, such as Agbara in Ogun State and Onitsha in Anambra State, have developed without proper zoning regulations, leading to environmental degradation and conflicts between industries and residential areas. The absence of a well-coordinated land-use framework results in chaotic urbanization, as seen in Lagos, where industrial zones often encroach on wetlands and flood-prone areas.

Despite institutional challenges, the judiciary has played a critical role in addressing some of these governance failures. In *Gbemre v. Shell Petroleum Development Company*<sup>193</sup>, the Federal High Court ruled that gas flaring violated the constitutional right to a clean environment. However, while these judicial decisions set important precedents, their implementation remains a challenge due to institutional weaknesses and political interference.

#### **4.5. COMPARATIVE ANALYSIS**

Comparing Nigeria's approach with other jurisdictions provides insight into best practices and potential reforms. For instance, South Africa's environmental impact assessment regime under the National Environmental Management Act integrates public participation and

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<sup>192</sup> *The Bodo Community v. Shell* [2024] EWHC 276 (TCC).

<sup>193</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd.* FHC/B/CS/53/05.

strict liability for environmental harm. Meanwhile, developed nations like Germany enforce stringent zoning laws that balance industrial growth with environmental protection. Nigeria's regulatory landscape, in contrast, often suffers from weak implementation and minimal public engagement. Industrial land use is a critical component of economic development worldwide. However, the policies, legal frameworks, and governance structures that regulate industrial land allocation and environmental protection vary significantly across jurisdictions. Some countries have developed sophisticated systems that balance industrial growth with environmental sustainability and social equity, while others struggle with weak regulations, corruption, and poor planning. This section provides a comparative analysis of industrial land use by examining global best practices and regional perspectives, particularly within Africa. This analysis sheds light on how Nigeria's approach to industrial land use compares with other nations and what lessons can be learned.

#### **4.5.1. GLOBAL PRACTICES IN INDUSTRIAL LAND USE**

Different countries have adopted varying approaches to industrial land use regulation, depending on their economic priorities, legal traditions, and environmental commitments. The most effective models prioritize sustainability, legal certainty, and stakeholder engagement.

The United States employs a highly structured zoning system to regulate industrial land use, ensuring that factories do not encroach upon environmentally sensitive or residential areas. Municipalities use zoning laws to separate industrial, residential, and commercial zones, minimizing environmental and health risks. Strict environmental regulations further reinforce this system. The Clean Air Act (1970) and Clean Water Act (1972) mandate industries to mitigate pollution before obtaining permits, holding them accountable for environmental impact. Landmark cases have also shaped industrial land use policies. In *Sierra Club v.*

*Morton*<sup>194</sup>, the U.S. Supreme Court affirmed that environmental groups have the legal standing to sue industries and government agencies, strengthening environmental activism. Similarly, *Massachusetts v. EPA*<sup>195</sup> compelled the Environmental Protection Agency (EPA) to regulate carbon dioxide emissions, expanding environmental oversight. Nigeria can draw valuable lessons from these practices. Implementing strict zoning laws could prevent industries from encroaching on wetlands, residential areas, or culturally significant lands. Additionally, establishing stronger environmental enforcement agencies, modelled after the EPA, could enhance compliance and curb industrial pollution, ensuring a more balanced approach to economic growth and environmental protection.

Germany has long been a global leader in balancing industrial growth with environmental sustainability, exemplified by the Bremen Industrial Park, a green industrial zone that integrates renewable energy, waste recycling, and strict pollution control measures. This approach is reinforced by the German Environmental Code, which requires industries to conduct comprehensive Environmental Impact Assessments (EIA) before obtaining permits. Judicial enforcement also plays a key role, as seen in *Bund für Umwelt und Naturschutz Deutschland v. Bundesrepublik Deutschland*<sup>196</sup>, where a German Court blocked a major coal plant for failing to meet environmental standards. Nigeria can draw valuable lessons from Germany by adopting eco-industrial park models that incorporate sustainable practices such as renewable energy, efficient waste management, and green transportation. Additionally, stronger judicial enforcement of environmental laws could deter industrial polluters and promote compliance with environmental regulations.

China's rapid industrialization, driven by Special Economic Zones (SEZs) in cities like Shenzhen and Guangzhou, has led to massive economic growth but also significant

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<sup>194</sup> *Sierra Club v. Morton* (USA) 405 U.S. 727 (1972).

<sup>195</sup> *Massachusetts v. EPA*, 549 U.S. 497 (2007).

<sup>196</sup> *Bund für Umwelt und Naturschutz Deutschland v. Bundesrepublik Deutschland* (Germany) Case C-115/09.

environmental challenges. Recognizing these issues, the Chinese Environmental Protection Law (2015) introduced stricter penalties for industrial pollution, holding corporations accountable for environmental harm. A shift toward stronger judicial intervention was evident in *Friends of Nature v. Fujian Green Power*<sup>197</sup>, where a Chinese Court ruled against a company for illegally dumping hazardous waste. Nigeria can learn from China's planned industrial zones while ensuring stronger environmental safeguards to prevent unchecked degradation. Additionally, government-led incentives for clean energy industries could encourage sustainable industrialization, ensuring that economic progress does not come at the expense of environmental health.

#### **4.5.2. REGIONAL PERSPECTIVES**

African countries face unique industrial land use challenges, including weak regulatory institutions, political interference, and informal land markets. However, some nations have made significant progress in balancing industrialization with sustainable land management, offering valuable lessons for Nigeria.

South Africa has one of the most developed industrial land use frameworks, featuring Industrial Development Zones (IDZs) in areas like Coega and East London. These zones operate under the Spatial Planning and Land Use Management Act 2013, which integrates industrial growth with sustainable land policies. Judicial rulings have reinforced this balance, in *Fuel Retailers Association v. Director-General, Environmental Management*<sup>198</sup>, the Constitutional Court held that economic development must not compromise environmental rights. Additionally, the National Environmental Management Act requires industries to

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<sup>197</sup> I. O. Akinwumi, T. O. Oyebisi and A. T. Salami, Environmental degradation in Nigeria: implications and policy issues—a viewpoint. *International Journal of Environmental Studies* (2001), 58 (5), 585–595 <<https://doi.org/10.1080/00207230108711352>> accessed 3rd December, 2024.

<sup>198</sup> *Fuel Retailers Association v. Director-General, Environmental Management* (South Africa) 2007 (10) BCLR 1059 (CC).

conduct Environmental Impact Assessments (EIAs) and involve local communities in decision-making. Nigeria could benefit from adopting IDZs with clear environmental regulations and ensuring community participation in industrial planning to reduce conflicts and displacement.

Kenya's industrial growth is shaped by its land tenure system, which often leads to conflicts between industrial developers and indigenous landowners. The Community Land Act (2016) requires consultation before land is allocated for industrial use, providing legal protections for local communities. This was reinforced in *Mitu-Bell Welfare Society v. Kenya Airports Authority*<sup>199</sup>, where the Supreme Court ruled that informal settlements near industrial zones cannot be evicted without due process. For Nigeria, improving land tenure security and strengthening legal protections for informal landholders would prevent forced displacement and ensure fair compensation for affected communities.

Ghana has embraced public-private partnerships (PPPs) in industrial land development, particularly in the Tema Industrial City, attracting foreign direct investment while maintaining environmental safeguards. The Environmental Protection Agency Act (1994) mandates strict pollution control measures, a principle upheld in *Agyeman v. Environmental Protection Agency*<sup>200</sup>, where the Court ruled that industrial permits must align with environmental laws. Nigeria could leverage PPPs to drive industrial investment, provided it strengthens its Environmental Impact Assessment (EIA) process and enforces compliance with environmental regulations.

By adopting structured industrial zones, improving land tenure policies, and strengthening environmental governance, Nigeria can balance industrial expansion with sustainability, learning from the successes and challenges of its African counterparts.

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<sup>199</sup> *Mitu-Bell Welfare Society v. Kenya Airports Authority* (Kenya) Petition No. 3 of 2018, Supreme Court of Kenya.

<sup>200</sup> N. J. Bennett, E. Morgera and D. Boyd, "The Human Right to a Clean, Healthy and Sustainable Ocean" (2024) 3 NPJ Ocean Sustainability <<https://www.nature.com/articles/s44183-024-00057-7#ref-CR7>> accessed 3rd December, 2024.

#### **4.6. PUBLIC AWARENESS AND ADVOCACY**

The effectiveness of industrial land regulation also depends on public awareness and activism. Grassroots movements and NGOs such as the Environmental Rights Action/Friends of the Earth Nigeria (ERA/FoEN) have played a vital role in holding corporations accountable. However, public advocacy faces obstacles, including political suppression and limited access to environmental information. Legal consciousness among affected communities remains low, further entrenching regulatory failures. Public awareness and advocacy play a crucial role in shaping land use policies, ensuring environmental justice, and holding both governments and corporations accountable for their actions. In Nigeria, industrial land use often sparks tensions between economic development and environmental sustainability, and public participation remains weak due to limited access to information and inadequate stakeholder engagement.

This section examines the role of public perception of land use policies and the advocacy for environmental justice, drawing on real-life examples, judicial precedents, and global best practices.

##### **4.6.1. PUBLIC PERCEPTION OF LAND USE POLICIES**

Public perception of land use policies in Nigeria is shaped by a lack of transparency, weak enforcement of regulations, and historical injustices related to land acquisition and industrial expansion. Many communities view government policies on industrial land use with suspicion, often associating them with land grabbing, environmental degradation, and forced displacement.

Throughout history, industrial projects in Nigeria have been marred by controversial land acquisitions that displaced communities without adequate compensation. A prime example is the Niger Delta oil exploration, where vast tracts of land were allocated to multinational corporations, often with little consultation or regard for the well-being of local

populations. In *SERAP v. Federal Government of Nigeria*<sup>201</sup>, the Economic Community of West African States (ECOWAS) Court of Justice ruled that the Nigerian government had failed to protect the environmental and economic rights of communities affected by oil exploration in the Niger Delta. This judgment reinforced the need for greater public awareness and participation in land use decisions. The Lekki Free Trade Zone controversy is another case where thousands of indigenous residents were displaced without adequate compensation, fuelling public distrust toward industrial land policies. Many Nigerians perceive land use policies as favouring corporate interests over community welfare, leading to widespread mistrust. This scepticism is worsened by the government's lack of transparency in land acquisition processes, which often fuels resistance and conflict. To rebuild public confidence, stronger participation mechanisms are needed, ensuring that communities have a voice in decision-making and that land policies prioritize both economic development and social equity.

The media and civil society organizations (CSOs) play a crucial role in informing the public about land use policies, exposing environmental violations, and advocating for justice. Investigative journalism has been instrumental in revealing cases of industrial pollution, illegal land grabs, and government complicity in environmental destruction. The 2021 Dangote Refinery land dispute in Lagos attracted widespread media coverage after local communities protested the forceful acquisition of ancestral lands. The Nigerian Bar Association (NBA) and environmental advocacy groups intervened, highlighting the lack of proper legal procedures. The case of *Ken Saro-Wiwa & Ors v. Shell Petroleum Development Company*<sup>202</sup> remains one of the most significant examples of how public advocacy exposed environmental injustices in industrial land use. The execution of Ken Saro-Wiwa, a vocal critic of Shell's pollution in Ogoniland, led to international outcry and intensified scrutiny on industrial land use policies in Nigeria. The media plays a crucial watchdog role by exposing illegal industrial land

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<sup>201</sup> *SERAP v. Federal Government of Nigeria* ECW/CCJ/APP/08/08

<sup>202</sup> *Ken Saro-Wiwa & Ors v. Shell Petroleum Development Company* (1997) 4 NWLR (Pt. 1534) 224.

acquisitions and environmental violations, while civil society organizations serve as intermediaries, educating the public and holding both corporations and the government accountable. Additionally, public advocacy movements have driven significant legal victories, shaped land use governance and reinforcing the need for transparent and sustainable industrial practices.

#### **4.6.2. ADVOCACY FOR ENVIRONMENTAL JUSTICE**

Advocacy efforts have increasingly gained international support, influencing Nigeria's industrial land use policies. Global environmental organizations such as Greenpeace, Amnesty International, and the United Nations Environmental Programme (UNEP) have played a role in advocating for environmental justice in Nigeria. The UNEP Environmental Assessment of Ogoniland (2011) led to the establishment of the Hydrocarbon Pollution Remediation Project (HYPREP) to address oil pollution in the Niger Delta. However, progress has been slow due to bureaucratic delays and corruption. The Paris Agreement (2015) and Nigeria's commitment to reducing carbon emissions have placed pressure on industries to adopt cleaner technologies. International advocacy plays a crucial role in shaping national policies, pushing governments toward sustainable industrial practices. However, enforcement remains a significant challenge, as commitments made at the global level often fail to translate into concrete action on the ground. Nigeria has pledged allegiance to various global environmental agreements, yet these commitments must be backed by strong domestic policies and enforcement mechanisms to be truly effective. Without tangible steps, these agreements risk becoming symbolic rather than transformative. Stronger collaborations between international organizations and local advocacy groups can bridge this gap, enhancing accountability and policy implementation. By working together, these entities can ensure that global environmental goals are not just adopted on paper but actively enforced in Nigeria's industrial land use practices.

## CHAPTER FIVE

### CONCLUSION

#### 5.1. SUMMARY OF FINDINGS

Land is a physical and legal entity, embodying economic power, environmental significance, and socio-political influence. In Nigeria, the use of land for industrial purposes has created a legal paradox: while the law recognizes property rights as fundamental, it also imposes environmental obligations to prevent degradation. The findings of this study reveal a legal landscape where property rights, industrial development, and environmental protection often collides, creating unresolved tensions that the legal framework struggles to mediate effectively. This study examined the intersection of property rights and environmental law in Nigeria, with a focus on the legal implications of industrial land use. Key findings include:

1. The Land Use Act vests land ownership in the government, creating conflicts with environmental laws like the Environmental Impact Assessment Act.
2. Despite Nigeria's comprehensive legal framework, enforcement remains a major challenge due to bureaucratic inefficiencies and weak institutional oversight.
3. Courts increasingly recognize environmental rights in property disputes, yet legal victories often fail to translate into effective policy implementation.
4. Industrial expansion frequently leads to environmental degradation, displacement of communities, and socio-economic inequalities.
5. Nigeria lags in integrating environmental rights within property law, unlike jurisdictions such as South Africa, where land use planning incorporates sustainability principles.

## 5.2. RECOMMENDATIONS

Having analysed the intersection of property rights and environmental law in the context of industrial land use in Nigeria, it is evident that significant reforms are needed to ensure a more sustainable, equitable, and legally sound approach to land governance. To address the challenges identified, the following legal and policy reforms are recommended:

1. The **Land Use Act** should be amended to incorporate stronger environmental provisions, similar to South Africa's **National Environmental Management Act (1998)**, which integrates sustainability principles into land governance.
2. That an environmental Court should be established with jurisdictions over land-related environmental disputes to improve enforcement.
3. Strengthening Regulatory Enforcement by ensuring that agencies like NESREA and the Federal Ministry of Environment operate independently and effectively.
4. Implementation of the 'Polluter Pays' Principle to hold industries accountable for environmental damage.
5. A legal mechanism for community engagement should be institutionalized. Public participation in environmental impact assessments should be more than a procedural requirement; it should have legal consequences for projects that fail to consult affected communities adequately.

## 5.3. CONTRIBUTION TO KNOWLEDGE

This study contributes to legal scholarship by:

1. Demonstrating the legal gaps in balancing property rights with environmental protection in Nigeria.
2. Advocating for the recognition of environmental rights as enforceable property rights.
3. Proposing legal reforms that integrate sustainability into industrial land use policies.

#### **5.4. AREAS FOR FURTHER STUDIES**

Nigeria is a signatory to several international environmental treaties, however, there remains a gap between international commitments and domestic implementation. A deeper analysis is needed to examine how international treaties influence Nigeria's property and environmental laws. Research should investigate why Nigeria has been unable to effectively domesticate these treaties into enforceable policies and whether a constitutional amendment is needed to give them direct legal effect. A final area of research is a comparative analysis of how developed and developing countries regulate industrial land use in environmentally sustainable ways. These are essential questions that require further empirical and policy-based research.

#### **5.5. CONCLUSION**

Land use for industrial purposes plays a crucial role in Nigeria's economic development, yet it presents significant legal and environmental challenges. The study has demonstrated that while property rights are essential for industrial expansion, their exercise often conflicts with environmental law, leading to land degradation, displacement of communities, and regulatory gaps. The existing legal framework, particularly the Land Use Act and environmental statutes, provides a foundation for managing these issues. However, weak enforcement, conflicting mandates among regulatory agencies, and judicial limitations have hindered effective implementation. To achieve sustainable industrial land use, Nigeria must adopt a more integrated legal approach that balances property rights with environmental obligations. Strengthening environmental governance through stricter enforcement, legal reforms, and judicial intervention is necessary to ensure industries operate within ecological limits. Comparative analyses show that other jurisdictions have successfully integrated environmental considerations into property laws, demonstrating that Nigeria can improve its

legal framework through policy innovation and institutional strengthening. Ultimately, this study underscores the urgency of reconciling economic growth with environmental sustainability. A reformed legal system; one that enforces environmental rights as an extension of property rights; will not only protect natural resources but also promote social justice and long-term economic stability. Nigeria's land governance policies must evolve to meet contemporary challenges, ensuring that industrial expansion does not come at the expense of environmental integrity and community well-being.

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