

# X-Raying the Environmental Impact of Armed Conflict in Nigeria

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## Abstract

The prevailing armed conflicts in Nigeria particularly in the Niger Delta region and North East have caused massive destruction to human lives and the environment at large. The high-level weapons, bombs and other explosives employed by the Niger Delta Militants, the Boko Haram group and the Nigerian military in counter-terrorism strategies have impacted negatively on farmlands, water-bodies, wildlife and natural forests. The paper examines the history and activities of the armed groups together with the effects of such activities on the Nigerian environment. The paper relies on doctrinal method of research utilizing primary and secondary information. The paper clearly finds that the conflict in the Niger-Delta region of Nigeria is attributed to consistent marginalization and undue neglect of the inhabitants by the Government and the oil companies as major stakeholders in the oil and gas industry. The extant legal frameworks on the protection of the environment during armed conflicts were equally examined, including international, regional and domestic instruments pointing out the lacunas inherent in the laws. The paper therefore, recommends that the Nigerian government should engage the armed groups operating in the North Eastern part of the country in more productive negotiations rather than employing armed attacks which have proven to be counter-productive.

**Keywords:** Environment, impact, Armed conflict, legal framework, Protection, Compensation, Negotiation

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## 1. Introduction

Despite the efforts made by the International Community in protecting human lives and the environment through legislations, the environment across the globe has remained a major victim of armed conflict (Global Environmental Law Annual, 2013). The impact of armed conflict presently goes beyond the injuries caused to human lives and damage to properties (Kenneth Mutuma, 2021). For many decades, attention was only paid to the protection of lives and infrastructure to the neglect of the environment (Abdulkarim Umar, 2020).

According to kofi Anan the former UN Secretary General, "Safeguarding the environment in which man lives is one of the foundations of security and peace" (Abdulkarim Umar, 2020) thus, it is the protection of the environment that ultimately leads to the protection of human lives and other forms of infrastructure. The extensive effect of armed conflict touches on the environment as well as the economic life of the people during and at the end of the conflicts (Olaitan Olusegun, 2021). The regions affected by armed conflict usually suffer from serious environmental degradations such as air pollution, water contamination, deforestation, soil destruction and oil contamination (Kenneth Mutuma, 2021). These negative effects on the environment happen basically due to the nature of weapons used by the fighting forces. The use of heavy explosive munitions and other kinds of poisonous chemicals which help to contaminate the environment, thus, injecting smokes and fumes in the atmosphere, destroy important infrastructure, and forest reserves which hitherto constitutes a safe habitats and farmlands (Olaitan Olusegun, 2021). The Nigerian environment has been negatively affected mostly by the activities of the Boko Haram sect operating mainly in the northeastern part of Nigeria and the Niger Delta militants in the southern part of the country.

These two groups over the years have engaged different strategies in inflicting pains on Nigerians and causing damage to the environment. Although there are legal frameworks for the protection of the environment in times of armed conflict, fighting forces seem to violate such provisions at the detriment of human lives and the environment. Article 35 (3) and 55 of the Additional Protocol 1 (Additional Protocol to the Geneva Convention of 1977), which was ratified by Nigeria in 1988 prohibits the use of means and tactics of warfare capable of causing severe damage to the environment. Thus, parties to conflict are to ensure that the means engaged do not affect the environment (Kenneth Mutuma, 2021).

For proper elucidation of the subject under review, the paper is divided into seven parts including

introduction. Part II, of the paper examines the history of armed conflicts and the environment to show that from time immemorial armed conflicts have always impacted negatively on the environment. Part III & IV discusses the activities of the Boko Haram and the Niger Delta Militants as well as the effects of their operation on the environment. Part V focuses on the legal frameworks for protecting the environment during armed conflict, while Part VI examines the response of the Nigerian Government to the conflicts. Part VII, of the paper contains the recommendations and concluding comments.

## **2. Armed Conflicts and the Environment**

Environmental degradation has always been an integral part of armed conflict for several decades (Kenneth Mutuma, 2021). In most cases, the after effect of the conflict continues to be visible even after declaration of peace in a Conflict stricken region (Kenneth Mutuma, 2021). Often, such conflict impact negatively on man and his immediate environment, this is so because armed conflict physically takes place within a given environment (Azeez Olaniyan and Ufo Uzodike, 2020). Therefore, environmental destruction has been counted as one of the prizes of warfare (Azeez Olaniyan and Ufo Uzodike, 2020). Degradation of the environment has always run side by side with conflict. Hence many years ago Hugo de Groot stated that “if trees have mouth to speak, they could have cried out saying that since they were not the cause of war, it was wrong for them to bear the consequences”(Azeez Olaniyan and Ufo Uzodike, 2020). Both the First and the Second World War recorded massive destruction of lives, infrastructure and the environment, particularly as sophisticated weapons such as explosives and chemical weapons were used by the fighting forces to actualize their aims (Kenneth Mutuma, 2021). The end of World War I and II did not in any way put to stop the incidences of War and environmental degradation (2 August 1990-28 February 1991).

The Vietnam War (1954-1975) being a very long conflict witnessed great destruction of the environment owing to the nature of weapons that were used by the parties to the conflict (Kenneth Mutuma, 2021). The American forces employed the use of “Agent Orange” which was described as having some toxic herbicide, and with it, they raided the Vietnam forests causing total destruction animals and the soil (Kenneth Mutuma, 2021). Again, the Persian Gulf War reveals the incidences of destruction to the environment through the destruction of oil well heads. It was recorded that more than 600 oil wells were damaged by the Iraqi military forces leading to massive environmental disaster which affected waterways, land and the air (Jacqueline Michel, 2010). The destruction of oil wells during the Gulf War was said to have caused the greatest oil spillage recorded the world over (Kenneth Mutuma, 2021), six hundred and thirteen oil well were lighted up, causing an effusion of about five million barrels of crude oil per day (Abdulkarim Umar, 2020). In Africa, Rwanda, the Democratic Republic of Congo and South Sudan are also examples of regions where armed conflicts have caused massive environmental destruction, climate change, deforestation, water pollution, and extermination of wildlife. Nigeria is not left out in the list of African countries suffering diverse environmental challenges as a result of conflicts, particularly with the emergence of the Boko Haram Sect and the Niger Delta militants in the last decades.

## **3. The Impact of Boko Haram Operation on the Nigerian Environment.**

There has been some form of debate among researchers as to the exact year that the Boko Haram sect was founded in Nigeria (Azeez Olaniyan and Ufo Uzodike, 2020). However, the nature of violence perpetrated by the insurgent group in the country particularly the northeastern region of Nigeria has greatly instigated fear among Nigerian citizens, neighboring countries and the international community at large (Akpoghome Theresa, *et al.* 2022). The cause of violence by the sect have been said to include rejection of western education, modern Islamic education (Azeez Olaniyan and Ufo Uzodike, 2020), marginalization and total exclusion (Adelphi, 2017). For over ten years, local residents in the regions are the worst hit. They have suffered untold hardship owing to the activities of the Boko Haram group. Many have abandoned their homes, and farmlands to take refuge in other locations. Borno and Yobe states have been affected the most by the activities of the Sect, with larger incidences of environmental degradation (Akpoghome *et al* 2022).

The operation of the insurgent and the counter attack by the Nigerian military have resulted to increased humanitarian challenges in Nigeria (Akpoghome *et al* 2022). This has led to massive loss of human lives across the northern part of the country, destruction of farmlands, water and forest reserves (Abdulkarim Umar, 2020). This has largely impacted negatively on health and economy of the people (Abdulkarim Umar, 2020). Following the death of the Boko Haram leader in 2009, the group resulted to violence in their approach and soon increased in number, recruiting more young people owing to unemployment and high level poverty in the northeastern part of Nigeria (Azeez Olaniyan & Ufo Uzodike, 2020). There is as it were, a long list of attacks carried out in different parts of Nigeria by the Boko Haram insurgent group. Between 2009 and 2010, the sect attacked the Divisional Police Station in Yobe State and burnt down one of the biggest prisons in Bauchi state in which hundreds of people were killed. In the same year, there was another deadly explosive attack in the Federal Capital Territory killing people and injuring others (Akpoghome, 2022).

Similarly, in 2011 the group bombed the INEC office in Niger State (Akpoghome, 2022) Army barrack in

Bauchi State with bomb explosives killing scores of people and leaving many others injured (Akpoghome, 2022). In 2014, the group kidnapped well over 200 young school girls from chibok village in Borno State and other 110 school girls in Dapchi, Yobe state in 2018 (Azeez Olaniyan & Ufo Uzodike, 2020) the Boko Haram group has continued its destructive activities in the Nigerian state none-stop despite claims by the Nigerian military that the group have been defeated and dislodged (Azeez Olaniyan & Ufo Uzodike, 2020). The continuous attack by the Boko Haram sect has constituted heavy security threat and underdevelopment in Nigeria, making it difficult to attract foreign investments and tourism. The Nigerian environment is also affected by the activities of the Boko Haram owing to nature of sophisticated weapon and explosives used by the insurgent group.

The bombings and effusion of smokes and fumes into the natural environment have greatly affected the ecosystem, weather and climate change, deforestation and destruction of wildlife (Akpoghome, 2022). Air pollution and contamination of drinking water are part of the environmental impact of Boko Haram activities especially in the northern part of Nigeria (Abdulkarim Umar, 2020). In international armed conflicts, parties are prohibited from contaminating recognized body of water, like lakes, wells streams of rivers; they are not to be poisoned (Azeez Olaniyan & Ufo Uzodike, 2020). It was reported in 2015 that a sizable number of cattle were found dead in Borno state owing to the poisoning of pond by the Boko Haram sect, as part of their scheme of operation to punish inhabitants of the region (Premium Times, 2015). Again, in the later part of 2014, Nigerian military discovered over eighty bodies including that of women and children dumped in a well in Bama town in Borno state, these were suspected to be persons who obviously resisted the group when they attacked the town (Vanguard, 2015).

There is no doubt that the activities of the Boko Haram group together with the counter-insurgency by the Nigerian military have tremendously increased environmental challenges in the northern regions affected by the attacks. According to Olaniyan and Uzodike, in the bid to defeat the Boko Haram insurgent group, the Nigerian Army used sophisticated weapons, bombs and explosives to chase the group out of Sambisa forest, in some parts, bulldozers were employed to open up the forest (Azeez Olaniyan & Ufo Uzodike, 2020). The consequence of protecting the territorial areas by the military therefore is the loss of healthy lands for agricultural purposes, and habitation for wildlife (Olaniyan & Ufo Uzodike, 11). The Boko haram group has consistently engaged the use of deadly methods like arson, water contamination, planting of landmines within farmlands to destroy lives and the natural environment (Olaniyan & Ufo Uzodike, 11).

#### **4. The Impact of the Niger Delta conflicts on the Nigerian Environment**

The Nigerian State is greatly endowed with a lot of abundant natural resources which the country has explored over the years for its economic sustenance and infrastructural development. The larger part of these natural resources is domiciled in the Niger Delta region of Nigeria. Most common of the resources include crude oil and natural gas (Viko Epu & Mbumeurem, 2021). Unfortunately, the desire to own and manage the income generating natural resources have led to armed conflict, loss of lives and increased cases of environmental degradation (Viko Epu & Mbumeurem, 2021). Some of the reasons for the conflict in the Niger Delta region of Nigeria include but not limited to marginalization of host oil communities, poor revenue allocation, and environmental degradation. The Niger Delta militants have severally attacked oil facilities in the region as a way of registering their grievance against the Nigerian government for acts of marginalization and the destruction of their environment (Bestman Wellington, 2013).

According to Bestman, during the periods that the police and military raided the group's hideouts, several dangerous weapons were discovered in droves. The weapons include the following, AK-47s, Czech SAs, light machine guns, Czech Model 26s, sten MK 2s, Rocket propelled Grenades (RPG), MAT-49s, MG 36s, Berettas, HK G3s, FN-FALs, homemade guns, pump action, short guns, and among others (Bestman Wellington, 2013). The use of these weapons obviously pose huge environmental risk as a result of contamination from the materials associated with the gun use, arguably, these contaminants contains leads, copper, zinc, antimony and also mercury, which when sank into the environmental soil, underground and surface water can lead to sickness and possibly for persons who live within the contaminated areas (Bryan Williamson, 2018).

With these deadly weapons, the armed groups have often forcefully stopped oil exploration in the Niger Delta region. They have held foreign oil experts' hostage and subsequently released them on the payment of ransoms. With arms and violence, the Niger Delta Militants have constantly fought against multinational oil companies and have forced some of them to move out of the region in search of protection (Theresa Akpoghome et al, 2022). The groups has in the bid to achieving their goal or getting the attention of government, have embarked on different violent attacks such as pipeline destruction, kidnappings, oil bunkering with associated massive environmental degradation within the Niger Delta area (Theresa Akpoghome et al, 2022).

The group launched an attack in 2004 over the Port Harcourt waterfront, destroying several residential slums and raising down oil facilities within Port Harcourt (Theresa Akpoghome et al, 2022). In 2016, the armed group destroyed a number of oil facilities in Delta State including oil pipelines and oil wells. The operation of the Niger Delta militants not only created instability in oil exploration in region, it has also given rise to serious

health challenges to the inhabitants of the area as a result of environmental degradation arising from the use of weapons and other chemical explosives which releases smokes and fumes into the atmosphere. In addition to the environmental degradation by these armed groups, there is sabotage by some other persons who go about rupturing oil pipelines and other oil associated installations. Most times, Oil pipelines running all across host communities are hardly serviced and maintained by the stakeholders in the Nigerian oil industry, and often leading to oil leakages which subsequently impact negatively on human beings, farmlands, water bodies, wildlife and the natural forest.

This has also been an age long challenge calling for the attention of all stakeholders in the oil and gas sector (Theresa Akpoghome *et al*, 2022). The gross neglect of these pipelines resulting in oil Spillage has severally occasioned fire outbreaks in which lives and properties were destroyed. On October 18, 1998, a pipeline explosion occurred in Jesse community in Delta State which was said to have been triggered off by the activities of scavengers intentionally rupturing oil pipeline with their tools and igniting fire on it. The pipeline fire explosion killed an estimated number of 1,082 persons and it is recorded to be the deadliest pipeline explosion to have occurred in Nigeria (The Guardian, 2019). In 2000, there was another pipeline explosion in the same Jesse town which killed as many as 250 people. Many of the victims lost their lives to the fire explosion in the process of scooping spilled petrol in buckets (The Guardian 2020). Yet again, in 2003 over 100 villagers were killed after an oil pipeline punctured by thieves exploded as local people scavenged for fuel in Onicha Amiyi-Uhu in Abia State (Nikki Knewstub, 2003).

Often, whenever there is a pipeline explosion besides the massive loss of lives which is a common feature in Nigeria, freshwater springs, farmlands and other kinds of environmental degradations are evident as a result of excessive volume of toxic substances released into the environment where such incidence has occurred (Theresa Akpoghome *et al*, 2022).

The discharge of toxic materials into fresh water bodies leads to shortage of safe drinking water, as well as the destruction of plants and aquatic animals (Theresa Akpoghome *et al*, 2022). Study shows that the Niger Delta aquatic ecosystem is greatly blessed with variety of fish species, both fin and shell-fishes (Ekinadose Orose *et al*, 2021). The Niger Delta waters serve a habitat to well over 250 different species of fish, 20 out of these species does not exist anywhere else in the world (Ekinadose Orose *et al*, 2021). However, many of the fish species are endangered due to the regular pollution of the region's coastal environment from associated petroleum exploration activities (Ekinadose Orose *et al*, 2021). Hence the posterity of the fish species in the region comes under threat, as future generation may not have reference material in this regard (Ekinadose Orose *et al*, 2021). Other sources of pollution aside from those induced by conflict also exist. For instance, in 2022, the Nigerian Navy destroyed not fewer than 347 illegal oil refineries within the Niger Delta region of the country, the destruction occurring within a period of five months (Tunde Ajaja *et al*, 2020). Apparently, this menace poses great danger to the environment, impacting negatively on human lives, crops, animals and water bodies (Tunde Ajaja *et al*, 2020).

It must also be added that during armed conflict, children are heavily affected as a result of exposure to environmental hazards emitted into the environment, thus causing serious health issues in children. World Health Organization (WHO) have said that well over 30% of the global burden of disease can be linked to environmental causes, while about 40% of the consequences comes on children five years of age (Olaitan Olusegun, 2021). The health risk for children increases during periods of armed conflicts. The use of military weapons and the release dangerous chemicals results to air pollution, and air pollution is the major cause of respiratory diseases in children (Olaitan Olusegun, 2021). Well over two million children less than five years of age die yearly as a result of respiratory associated diseases (Olaitan Olusegun, 2021). The health risk increases the more for children in developing countries during armed conflict as a result of lack of social infrastructures like good health care system and unavailability of good and quality drugs (Olaitan Olusegun, 2021). In addition, pregnant women are equally affected by environmental pollution during armed conflict and this brings about complications for the women and deformity of new born babies (Olaitan Olusegun, 172).

## **5. Legal Frameworks for Protection of the Environment during Armed Conflicts**

There are number of relevant instruments applicable to the protection of the environment in times of armed conflict found in the field of International Humanitarian Law.

### **5.1. International Framework**

The Additional Protocol to the Geneva Convention of 1949 (Relating to the protection of Victims of international Armed Conflict (Protocol 1), serve as the first legal instrument to provide for the protection of the environment during armed conflict. Specifically, Articles 35 (3) and 55 (1) provides for the safeguard of the environment in times of armed conflict (Mayank Mani, 2021). Article 35 lays down the basic rules in respect to the means and tactics of warfare. Paragraph 3 provides that is prohibited to employ methods or means of warfare which are intended or may be expected to cause widespread, long-term and significant damage to the

environment (Abdulkarim Umar, 2020). Thus, this article becomes the first to protect the natural environment during conflict within the international community (Abdulkarim Umar, 2020).

Article 55 (1) on the other hand, provides that care must be taken in war warfare to protect the natural environment against widespread, long-term and serve damage. Thus, means and methods of warfare intended to cause damage to the environment and by so doing cause harm to the health or survival of the population is prohibited (Alexandra Prus, 2020). According to Alexandra, although Articles 35 and 55 are applicable to international armed conflict, they represent an example of Customary International which applies to all States except the “persistent objectors”. The International Committee of the Red Cross (ICRC) have stated that the rule in the above articles has developed into customary international law with countries like France, the UK, and the United States as persistent objector (Alexandra Prus, 2020). Thus, the Articles 35 (3) and 55 (1) of the Additional Protocol 1, can be extended to non- international armed conflicts (Alexandra Prus, 2020). It must be noted that the Federal government of Nigeria have ratified the Additional Protocol to the 1977 Geneva Convention which protects the natural environment during armed conflict. However, the instruments have not been domesticated by the National Assembly in line with Section 12 of the 1999 Constitution as Amended (Akpoghome *et al* 2022). Until this instrument is domesticated, it cannot be enforced by the courts in protecting the Nigerian environment in times of conflict (Akpoghome *et al* 2022).

United Nations Convention on the Prohibition of Military or any other Use of Environmental Modification Techniques (1976) is another international instrument that seeks to protect the natural environment during armed conflict. Article 1, prohibits State parties from engaging in military or any other hostile use of environmental modification techniques with the potential of causing widespread, long-lasting or severe effects as a means of destruction to natural environment (ENMOD, 1977). Article 11 prohibits the use of any technique aimed at changing or manipulation of the natural processes, the dynamics, composition or structure of the earth, including biota, lithosphere, hydrosphere and atmosphere or of outer space (ENMOD, 1977).

Similarly, the Convention on Prohibitions or Restrictions on the use of Certain Conventional Weapons (CCW) which may be deemed to be excessively injurious or to have indiscriminate effects, Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons (1980) Article 2 (4) of Protocol III specifically protects the environment. It provides that weapons made of combustible materials are prohibited from being used against the landscape’s green belt (Mayank Mani, 2021). This Protocol is yet to be domesticated in Nigeria and the implication of this however, is that rights ensuing from the Protocol cannot be justiciable to benefit inhabitants of the Niger Delta and other regions whose environments are negatively affected by the activities of armed groups.

The UNGA Resolution 63/54 of 2009 acknowledges the need to protect the environment in times of armed conflict. Part of the resolution reads thus: “humankind is more aware of the need to take immediate measures to protect the environment, any event capable of jeopardizing such efforts requires urgent attention to implement the required measures” (Global Environmental Law Annual 2013) the resolution therefore stresses that potential harmful effects of the use of ammunitions containing depleted uranium on the health of human beings and also the environment (Global Environmental Law Annual 2013).

## 5.2. Regional Framework

A couple of Regional instruments in Africa (Kenneth Mutuma, 2021) applicable in times of armed conflict have been helpful in supplementing the extant laws in both international humanitarian law and international environmental law in regard to the African continent. These regional laws clearly provide for the protection of the environment considering the incessant conflicts that have bedeviled the region for several years. They include the following:

5.2.1. Revised African Convention on the Conservation of Nature and Natural Resources (1986) (RACCNNR) In this Convention, the contracting States undertake to adopt the measures necessary to ensure the conservation, utilization and development of the soil, water, floral resources in accordance with scientific principles and with due regard to the best interests of the people (RACCNNR, Article 2). State parties are to maintain policies to conserve, utilize and develop water resources, prevent pollution and control water use (RACCNNR, Article 4). Under the Convention, members are to conserve faunal resources and use them wisely, manage populations and habitats, control hunting, fishing, and prohibit the use of poisons, explosives and automatic weapons in hunting and armed conflict (RACCNNR, Article 7). The Revised African Convention on the Conservation of Nature and Natural Environment serves as a comprehensive instrument which offers environmental protection before, during and after armed conflict (Mutuma, 2021). Article XV (1) (a, b, c, d, e) of the African Revised Convention provides against Military and Hostile Activities. It reads as follows:

- (a) The parties shall take every practical measure, during periods of armed conflict, to protect the environment against harm;
- (b) refrain from employing or threatening to employ methods or means of combat which are intended or may be expected to cause widespread, long-term, or methods of warfare are not developed, produced,

- tested or transferred;
- (c) refrain from using the destruction or modification of the environment as a means of combat or reprisal;
- (d) undertake to restore and rehabilitate areas damaged in the course of armed conflicts;
- (e) the parties shall cooperate to establish and further develop and implement rules and measures to protect the environment during armed conflicts (RACCNNR, Article XV (1) (a, b, c, d, e).

It is considered as one of the first treaties in the African sub-region to make provision for the regulation and the protection of the environment (RACCNNR Article XV (1) (a, b, c, d, e). Thus, in July 2013, a revised convention was subsequently adopted in Mozambique by the African Heads of States, and came into force in July 2016 (RACCNNR Article XV (1) (a, b, c, d, e) to provide better environmental protection within the region (RACCNNR Article XV (1) (a, b, c, d, e). Article 15 of the Convention specifically provides for the protection of the environment during armed conflict and other forms of hostile operations (Mutuma, 2021).

It is important to note Article 15 did not draw any line of distinction between international armed conflict and non-international armed conflict, this cannot be assumed to a mistake made by the heads of States at the time convention was adopted, thus Article 15 should be taken to apply to all forms of armed conflicts, this becomes important owing to the fact that most of the conflicts in the African sub-region are mainly internal in nature, and often international laws does not offer sufficient protection for the environment within the region during armed conflict. Hence, the Convention seeks to cover the lacuna created by international law in respect to non-international armed conflict (Mutuma, 2021).

#### 5.2.2. Action Plan for the Environment Initiative of NEPAD (2003)

The initiative acknowledges that armed conflict in Africa can constitute a serious challenge in the (NEPAD, 2003) protection of the environment and natural resources, and so it considers a long-term strategy towards environmental stability (Mutuma, 2021). The initiative projected the importance of the natural environment hence the need for its protection (Mutuma, 2021).

### 5.3. Domestic Framework

#### 5.3.1 The Constitution of Nigeria 1999 as amended

The constitution of Nigeria 1999 provides for environmental protection in the country. Environmental matters are taken as part of the fundamental objectives and directive principles of state policy. Similarly, the Constitution of Nigeria inputs environmental matters on the exclusive legislative list by item 60 (a) which authoritatively empowers the National Assembly to make laws for the regulation of the environment (Constitution of the Fed Rep. of Nigeria, 1999 as amended). It states that: “The State shall protect and improve the environment and safeguard the water, air land, forest and wildlife of Nigeria (Section 20 of the Constitution of the Federal Republic of Nigeria). Obviously, the activities of the Boko Haram and the Niger Delta Militants have impacted negatively on the land, water, air, forest and wildlife.

Other treaties, including environmental treaties which have been ratified by the National Assembly is expected to be implemented as law in Nigeria, (Section 12 of the Constitution of the Federal Republic of Nigeria) includes, but not limited to the following: The Amendment to Montreal Protocol on Substances that deplete the Ozone Layer (10 April 1996), International Convention to combat Desertification in the Countries Experiencing Serious Drought and /or Desertification, particularly in Africa, (31<sup>st</sup> of October 1994 ) the International Convention on Oil Pollution Preparedness, Response and Cooperation, (13<sup>th</sup> of May 1995) and the Framework Convention on Climate Change (13 of June 1992, entered into force on the 27<sup>th</sup> of November 1994). Together with other important treaties on environment which has been ratified by the National Assembly in line with section 12 of the 1999 Constitution.

Sections 33 and 34 which guarantee fundamental human rights to life and human dignity have equally been said to be connected to need for healthy and safe environment to potentially give effect to these rights (Kefas Mamman, 2021). According to Akpoghome, the Boko Haram Sect have through their several attacks particularly in the Northeastern part of Nigeria destroyed and polluted the air, water, land, forest and wildlife. The efforts put in by the government in combating the challenges are yet to be made manifest (Akpoghome *et al*, 2022).

#### 5.3.2. The National Environmental Standards and Regulation Enforcement Agency Act (NESREA) (2007).

The scope of this regulation covers matters relating to air,( Section 20 NESREA Act 2007) water (Section 23 NESREA Act 2007) and noise (Section 22 NESREA Act 2007) as well as land destruction. The power of the regulatory agency is primarily directed towards the protection and sustainable development of the environment and its natural resources. It has authority to ensure compliance with environmental laws, local and international on environmental sanitation and pollution through monitory and regulatory means (Section 7 NESREA Act 2007). The Agency prohibits the discharge of hazardous substances into the environment without obtaining the needed permission (Section 27 NESREA Act 2007). Violation of the provisions of the Act is subject to punishment (Section 27 NESREA Act 2007). One major challenge with this Act is that it does not provide for environment pollution during periods of armed conflict. It could be described as a peace time regulation and not war related (Akpoghome *et al*, 2022). Again, the punishments spelt out by the Act are considered too small to

deter offenders from environmental degradation (Akpoghome *et al* 2022).

5.3.3. The Harmful Waste (Special Criminal Provisions) Act CAP H 1 LFN 2004.

This Act prohibits the acquisition, trade deposit and stowage of toxic waste with penalty of life imprisonment if found culpable of the offence and where the offence was committed by legal entity (Section 6 of the Act). Harmful waste is defined as hazardous substances including chemicals, physical or biological radioactive materials that pose a threat to human health and environment (Section 37 of the Act). The major problem with the Act is its failure to extend to all forms of harmful wastes including gas flaring in the oil and gas industry (Joshua Olushola, 2019).

5.3.4. The Sea Fisheries Act, CAP S4 LFN 2004

The Act prohibits any unlicensed operation of motor fishing boats within Nigerian waters (Section 1 of the Act). The Act similarly makes it unlawful to destroy fishes within the Nigerian water. Section 10 (1) of the Act reads thus:

"No person shall take or destroy or attempt to destroy any fish within the territorial waters of Nigeria or its exclusive economic zone by any of the following methods, that is;

- a) by the use of any explosive substance; or
- b) by the use of any noxious or poisonous matter.

Any person, who contravenes the provisions of subsection (1) above shall be guilty of an offence and liable on conviction to imprisonment for two years or a fine of N 50,000. The Act provides the appropriate authority responsible for the protection and conservation of sea fishes (Section 14(2)).

## **6. ROOT CAUSE OF ARMED CONFLICT IN THE NIGER DELTA REGION**

### **6.1. Poor and uninhabitable environment**

Environmental pollution especially in the Niger-Delta region results mainly from the activities of the Multi-national oil companies operating in the area. This happens in the process of exploiting and refining of mineral resources (Viko, Epu and Mbumbeurem, 2021). This impact negatively on the environment and makes live very difficult for inhabitants of the region (Viko, Epu and Mbumbeurem, 2021). Water bodies which serve a veritable source of livelihood for the people are polluted, aquatic system and other animals in the forest are heavily affected, farmlands are not also left out in the contamination process. The air is equally contaminated and that survival becomes hard for the people. Therefore, when oil host communities consistently complain of the effects of oil explorations within their region and are neglected, overtime, they become aggrieved for lack of attention and adequate compensation as is the situation in the Niger region of Nigeria; this leads to full blown armed conflict (Viko, Epu and Mbumbeurem, 2021).

### **6.2. Quest for resource control**

It must be noted that the bulk of Nigeria's national revenue is derived oil exploration and these oil activities are carried out within the ethnic minority groups of Ijaw, Urhobo, Itshekiri, Efik and Ogoni within the Niger-Delta area of Nigeria (Dickson Omukoro, 2019). For several running, these groups within the region have consistently kicked against their marginalization by the federal government irrespective of the fact the Nigeria's economic survival is sustained by the crude oil from the Niger-Delta region (Dickson Omukoro, 2019). Despite the huge financial gain which comes from the area, inhabitants remains poor and devoid of reasonable social amenities to show for the heavy profits from oil and gas produced in the region (Dickson Omukoro, 2019). This is due to the gross neglect and abandonment of the people and their environment for violence and armed conflict over the years. The region is angry because a sect few individuals running the affairs of government at the federal level who are not from the oil producing areas are the ones deciding the fate of the natural resources domiciled in their territory (Dickson 2019). Again, the revenue allocation from the federal government to region is considered too small compared to massive oil revenue derived by the Nigerian government from the region, this obviously have triggered off frustration, anger and violence from these ethnic minority groups found in the Niger- Delta area who view themselves as suffering from internal colonialism and thus seeking for the right to self-determination (Dickson 2019), and effective participation (Viko, Epu and Mbumbeurem, 2021).

### **6.3. Lack of Constitutional Amendment**

The right to ownership and control of natural resources in Nigeria has a constitutional foundation. Section 44 (3) of the 1999 Constitution (as amended) clearly vests the ownership and control of all mineral resources on the federal government. The section provides thus:

Notwithstanding the forging provision of this section, the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon territorial waters and the Economic zone of Nigeria shall vest in the Government of Federation and shall be managed in such manner as may be prescribed by the National Assembly

Similarly, Section 1 (1) of the Petroleum Act 1969 also further vests ownership and control of "all on-shore

and off-shore revenue from the territorial waters and the continental shelf of Nigeria and petroleum resources derivable therefrom vest in the Federal Government. It is important to note that irrespective of the various constitutional provisions vesting ownership and control of natural resources on the federal government of Nigeria, there is still a continuing debates as to the constitutionality and legality of these provisions, the Niger Delta people are unhappy with these constitutional provisions and insists that all lands and mineral resources deposited within their territory indisputably belong to them as the basis of their survival (Theodore Okonkwo, 2017). Hence, the Kaima Declaration states that the Ijaw nation “ceases to recognize all undemocratic decrees that rob our communities of the right to ownership and control of our lives and resources, which were enacted without our participation and consent”, (Theodore, 2017). Thus, what the states which make up the Niger Delta oil producing region of the country are clamoring for is “Resource Control” that is the political freedom and right over crude oil and gas, right over management and utilization of such resources for the overall benefits and development of their region (Theodore, 2017). The people calling for a constitutional amendment and complete restructuring of the oil and gas sector, this is considered a major cause of internal armed conflict in Nigeria. Therefore, if peace is going to return to the region and the country at large, the people must be recognized as the owners of the natural resources found in their territory and given the right to explore and utilize the natural resources for their own interest and development through constitutional provision (Lawrence Atsegbua, 2012).

## 7. GOVERNMENT RESPONSE TO THE CONFLICTS

At the early stages of the violence by the Niger Delta militant youth over the environmental degradation within the host communities in which mining and refining activities are carried out, the government’s response was to engage the use of military and federal might to suppress the agitation of the restive youth. Thus, the harsh response of the government led to more violence and intense conflict in the region (Viko, Epu and Mbumbeurem, 2021). Suddenly, the Nigerian government woke up to acknowledge that unless positive measures are urgently put in place to address the agitation of the people for resource control, the federal government would suffer a lot in terms of revenue generation and then prospective foreign investor will be deterred from investing in the Nigerian oil sector because of the conflict by the militant youths. The government then decided to respond by increasing the revenue of the oil producing states of the country and establishing some agencies to intentionally attend to the infrastructural needs of the oil producing communities (OMPADEC 1992).

Subsequently, in 1995 a Constitutional Conference was inaugurated to further again attend to the agitations of the oil producing host communities. The Conference came up with a recommendation to increase oil revenue allocation due to the oil producing states of Nigeria (Section 162 (2) Constitution of Nigeria as amended).

Again, the government of President Obasanjo established the Niger Delta Development Commission (NDDC) which of course had almost had the same functions as the OMPADEC which was later repealed owing to major criticisms by the oil producing states, that majority of members of the Commission were from non-oil producing communities. This problem was addressed by the NDDC in that the NDDC provides the opportunity of including members of the host communities into the Commission (Viko, Epu and Mbumbeurem, 2021). The author hereby argues that despite the various policies of the Nigerian government to increase the oil revenue allocations to the oil producing states the problems of the region still remains unresolved, this is because the major demand of the oil producing states is to have a voice and fully participate in the production and management of the mineral resources found in their territory. Until the people are carried along in the exploration and management and control of the resources the end of armed conflicts in the region is near impossibility.

The governments of Nigeria have similarly adopted several other measures to manage and arrest internal conflicts at different times in order to protect the lives of its citizens, properties and restoration of peace and security. The first response of the Nigerian government to the emergence of the Boko Haram group was the introduction of Military Repression in the affected areas within the Northeastern parts of Nigeria.

Thus, the government established a special Joint Task Force known as ‘Operation Restore Order’ this military task force was mandated to restore law and order to the north eastern part of Nigeria particularly in Borno State serving as a counter weight to the Boko Haram Sect (Established in June 2011). The special task force was composed of the Nigerian Armed Forces, Nigerian Police Force, Department of State Security, Nigerian Customs Services, Nigerian Immigration Services and Defence Intelligence Agency (Understanding JTF-Proquest, 2022). Despite claims by the Joint Task Force that the Boko Haram group has been defeated; the insurgent group have not relented in bombing, abducting and destruction of lives and properties in the country. According to Sagir Musa, spokesperson for the Joint Task Force, JTF, Operation Restore Order “most of the terrorists’ commanders and foot soldiers have either been arrested or killed in their daily encounter with the JTF. We have been able to destroy all identified Boko Haram camps and have recovered many arms, ammunition and Improvised Explosive Device (IED) materials”(Premium Times, 2013).

The efforts of the government applied through the JTF have not proven effective enough to curb the activities of the Boko Haram group, till date; the insurgent group is still terrorizing villages, bombing and

kidnapping local residents in the in specific parts of the country (Akpoghome *et al*, 2022). Despite efforts made by the JTF to wipe out this violent group they seem to be increasing in membership (Akpoghome *et al*, 2022). Armed conflicts in countries like Angola, Namibia, Afghanistan and Iraq have shown that defeating a home raised insurgent armed group has always been a difficult task (Akpoghome *et al*, 2022). One wonders how true the government's claim of technically defeating the Boko Haram Sect could be (Akpoghome *et al*, 2022).

The Federal Government's Amnesty Policy was established to address the agitations of the Niger Delta youths which had formed several militia groups in protest to the plethora of environmental degradation in the region. The armed militant groups focused its target on the oil companies and their workers in terms of hostage taking, kidnapping for ransom, vandalism and murder in most cases (Oscar Ubhenin, 2013). The activities of the militant groups obviously affected the production of crude oil in the country, thus, reducing the 2.5 million barrels of production per day (BBC News, Nov 2014), to 1.7 million barrels per day causing the nation to drop in ranking as a frontline crude oil exporter (Oscar Ubhenin, 2013). Meanwhile, the region which bears the economic strength of the nation via crude oil production has for over 60 years have suffered from the negative consequences of oil exploration (Angela Ajodo-Adebanjoko, 2017).

When the former president of Nigeria Umaru Musa Ya'Adua assumed office in May 2007 he included the Niger Delta agitation into his seven-point agenda, to curb the conflicts the Niger Delta region, the President set up the Presidential Committee on Amnesty and Disarmament of Militants in the Niger Delta, whose assignment primarily was to design a policy framework aimed at disarmament, demobilization, rehabilitation and reintegration of the militant groups (Oscar Ubhenin, 2013). This resulted in the June 25 2009 declaration of presidential Amnesty in accordance with Section 175 of the Constitution of the Federal Republic of Nigeria, to persuade the militant group in the Niger Delta region to drop their guns and embrace peace (Oscar Ubhenin, 2013). This became necessary in order to restore back the already bleeding national economy which depends basically on crude oil to thrive (Akpoghome *et al*, 2022).

The government therefore gave a 60 day Amnesty policy, meaning that militant who drops his guns within 60 shall not be tried or prosecuted by the government for the destruction which they have caused to the oil industry (Akpoghome *et al*, 2022). Thus, a total number of 26, 808 militants laid down their arms and ammunitions and were granted unconditional national pardon, as a result, they were integrated into the society and were trained within and outside the country (Angela Ajodo-Adebanjoko, 2017). Within that time frame, temporal peace was experienced in the Niger-Delta region. This peace did not last for too long as other militant groups soon sprang up from the region, like the Niger Delta Avengers (NDA), the Red Egbesu Water Lions, The Joint Niger Delta Liberation Force, and the Niger Delta Red Squad (NDRS). The groups have not in any way stopped in bombing oil installations and abducting oil workers as well as killing innocent persons in the region. The effects of their operation, has led to unbearable environmental degradation and loss of human health (Angela Ajodo-Adebanjoko, 2017). Although some groups surrendered their arms others did not, claiming that amnesty policy of government does not in any way address the root cause of the violence in the region.

Sadly, the Amnesty Policy of Federal Government did not achieve so much result owing to the fact that it did not address the root cause of the problems, while persons who laid down their arms where either given some specified amount of money or registered in some form of empowerment programmes, that did not address the environmental challenges peculiar to the region. Issues like gas flaring, oil spillage, pollution of waterbodies, and destruction of forest and farmlands where left unattended to (Angela Ajodo-Adebanjoko, 2017). The policy did not reach out to the very victims of environmental degradation who had their health, properties and means of livelihood destroyed. According to Akpoghome, the Amnesty policy was hijacked by politicians which made the weaker tribes within the region ostracized from the erstwhile laudable initiative of the Nigerian government (Akpoghome *et al*, 2022).

## 8. RECOMMENDATIONS AND CONCLUSION

The discussion from this paper revealed the impact of internal armed conflict on the Nigerian environment as well as the response of the government to the conflicts. It pointed out that the environment has always from history been a silent victim of warfare with little and in most cases no attention given to it by the extant laws. Environmental destruction is hardly a top concern for warring parties. The paper argued that the conflict in the Niger-Delta region of the country is mainly due to marginalization and neglect by the Federal government and the multinational oil companies to bring closer to the people infrastructural development commensurate with the natural resources extracted from the region. The counter- terrorism strategy of the Nigerian government against the Boko Haram Sect rather than being effective, have created some obvious destruction on the environment particularly in the northeastern part of the country this is as a result of the tactics employed such as bombs, sophisticated weapons and explosives.

The Nigerian government needs to adopt a collective non-violent approach in resolving the Niger-Delta Conflict. 'Peace cannot be enforced or dictated' matching the militants' fire for fire by constituting different military operation outfits cannot initiate the needed peace in the region. The government should rather direct its

efforts towards a people-oriented and community-based approach with sufficient features of democracy, equity and general participation of all necessary stakeholders.

The government should concentrate on implementing the resource control and ownership principle. This will remove the present constitutional ownership of mineral resources in Nigeria from vesting in the Federal Government, and transferring ownership and control of mineral resources constitutionally to the region. This to a large extent will give the local communities the opportunity to negotiate for meaningful royalties directly from the international oil companies to enable develop their region by themselves. Resource and revenue allocation from government to the region have not been helpful in resolving the region's agitations.

To preserve lives, the environment and the ecosystems, the Nigerian government should find a way to engage the Boko Haram group in more productive negotiations rather than military attacks, the use of bombs and explosives by the Nigerian Armed Forces as counter-terrorism mechanism have led to the worsening environmental destruction of farmlands, waterbodies and the natural forests. The government must conduct thorough investigation to identify the brains behind the Boko Haram group; their source of income must be unraveled by the government, the Central bank of Nigerian and other commercial banks within the country to immediately cut off their financial strength.

The effects of armed conflicts in the country have give rise to internal displacement and refugee problems, in the cause of armed conflicts, most parents are killed and their houses burnt down, in the process leaving their children displaced and helpless, thus, constituting social nuisance to country and becoming refugees and asylum seekers. Children must adequately be protected during armed conflict as provided for by the numerous International, National and Regional Legal Instruments, therefore, the various legal frame works providing for children during conflicts must be respected and timely enforced, this this regards, the government, health care professionals as well as the warring parties must through concerted efforts protect the fundamental rights of children and expose them to healthy environment (Olaitan Olusegun, 2021).

The approach of the Nigerian government on internal armed conflicts should be geared primarily towards tackling the root causes of such conflicts timeously rather than giving 'palliative solutions' this will help in saving the lives of local residents, savage infrastructural destruction as well as preventing environmental degradation.

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