

Ecocide criminalization in Nigeria: Addressing regulatory deficiencies for effective ecological justice enforcement

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Abstract

The study examined ecocide and criminal liability in Nigeria with focused on the transition from regulatory approaches to effective criminal justice responses for ecological devastation. Oil spills, illegal refining, crude oil theft, pipeline vandalism, gas flaring and regulatory failures have contributed to ecosystem destruction, biodiversity loss, contamination of land and water resources. The research adopted doctrinal methodology which involve the analysis of legislation, judicial decisions, international legal instruments, comparative legal developments and relevant academic literature. The study analysed the development of ecocide as an emerging international crime, assessed Nigerian environmental criminal liability framework and examined challenges affecting accountability for petroleum-related environmental destruction in the Nigeria. Findings of the study revealed that although Nigeria has environmental laws and regulatory institutions addressing pollution, petroleum activities and resource exploitation but these mechanisms have failed to prevent widespread ecological damage. The study found that existing approaches rely mainly on administrative sanctions, compensation and remediation, which are inadequate for addressing severe, widespread, or long-term environmental destruction. The absence of ecocide and liability offence limits criminal accountability for corporations, state actors and other responsible entities. The study identified challenges relating to corporate responsibility, evidence, enforcement capacity and conflicts between economic development and environmental protection. The study recommended the introduction of ecocide and criminal liability offence, specialised environmental investigation and prosecution mechanisms and enhanced community participation in environmental protection.

Keywords: Ecocide, criminal liability, environmental crimes, Niger delta, petroleum pollution, environmental justice

Introduction

Environmental destruction has developed from a subject addressed mainly through domestic environmental regulation into an issue considered in international criminal law. Traditional legal responses to ecological harm have relied on permits, administrative sanctions, compensation mechanisms and regulatory enforcement (Nurse, 2022) [38]. These approaches were designed around identifiable offenders, direct victims and immediate injury. Severe environmental destruction presents different legal difficulties because ecological damage occurs over extended periods, involve multiple actors and affect human communities, biodiversity, natural resources and future generations (WhiteHasler, 2018) [54]. The environmental consequences of armed conflict contributed to early discussions on international criminal responsibility for ecological destruction. During the Vietnam War, the use of chemical herbicides, including Agent Orange, resulted in extensive damage to forests, agricultural land and ecological systems (DVA, 2026). Falk (1973) [15] examined environmental warfare and proposed that deliberate destruction of ecosystems required international legal recognition.

The term “ecocide” emerged from these debates as a description of severe acts causing destruction to environmental systems. Arthur Galston used the term in 1970 when addressing the ecological consequences of chemical warfare during the Vietnam War, while Olof Palme later referred to environmental destruction caused by warfare as ecocide during the 1972 United Nations Conference on the Human Environment in Stockholm

(Killean & Short, 2025) [31]. Falk (1973) [15] later proposed a Draft Convention on the Crime of Ecocide, defining ecocide as conduct intended to disrupt or destroy human ecosystems during peace or war. The proposal reflected concerns that existing international crimes did not provide a legal category for extensive environmental destruction. International criminal law developed around crimes involving human suffering, armed conflict and attacks against populations, leaving severe ecological harm without separate recognition. Contemporary discussions have expanded ecocide beyond wartime conduct to include destruction resulting from industrial activities, pollution, resource extraction and other activities conducted during peacetime (Wirtu & Abdela, 2025; Fernando *et al.*, 2026) [16, 17, 55]. The Independent Expert Panel convened by the Stop Ecocide Foundation proposed in 2021 that ecocide should refer to “unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts” (Higgins, Short & South, 2021) [23].

Recognition of ecocide as an international crime has generated debate regarding possible amendment of the Rome Statute of the International Criminal Court. The Statute recognises genocide, crimes against humanity, war crimes and aggression but does not recognise environmental destruction as an independent international crime. Article 8(2)(b)(iv) addresses environmental damage arising from international armed conflict, but its application remains limited to wartime situations and does not extend to severe environmental destruction occurring during peacetime

(Branch & Minkova, 2023) ^[6]. Higgins, Short and South (2013) ^[24] posited that existing criminal categories do not adequately address harm directed against ecosystems. The movement for ecocide recognition reflects an attempt to treat the environment as an object of legal protection rather than only as property or a resource affected by human activity (Higgins, Short & South, 2021) ^[23]. Nigeria provides an important case study of environmental destruction linked to extractive activities. Crude oil production has contributed to economic development but has also caused extensive ecological damage in oil-producing communities, particularly in the Niger Delta. The region contains mangrove forests, wetlands, rivers and coastal ecosystems that support fishing, agriculture and local livelihoods which have been affected by oil spills, pipeline failures, illegal petroleum activities and inadequate remediation efforts (Ordinioha & Brisibe, 2013) ^[42].

Green *et al.* (2025) ^[21] associate illegal petroleum activities with contamination of water sources, biodiversity decline, ecosystem damage and public health risks. Other environmental pressures arise from gas flaring, illegal mining and deforestation, which contribute to air pollution, land degradation, loss of vegetation and habitat destruction. Existing environmental regulation has encountered difficulties in addressing large-scale ecological destruction because many offences are managed through administrative penalties, regulatory measures and compensation arrangements. Nigeria has adopted environmental laws and regulatory measures such as petroleum legislation, pollution control requirements, environmental standards, the Petroleum Industry Act 2021 and the regulatory mandate of the National Environmental Standards and Regulations Enforcement Agency (NESREA) (Ibrahim *et al.*, 2026; Ogbonah, 2026) ^[26, 39]. Continued environmental damage in affected communities raises questions regarding the capacity of these legal mechanisms to prevent and punish severe ecological harm. The United Nations Environment Programme assessment of Ogoniland identified extensive petroleum hydrocarbon contamination of soil and groundwater, with adverse consequences for ecosystems and community health (UNEP, 2011) ^[51].

Persistent pollution in the Niger Delta has shown difficulties relating to environmental monitoring, enforcement capacity, technical resources, regulatory coordination and accountability for responsible actors (Green *et al.*, 2025) ^[21]. Attributing criminal responsibility for ecological destruction requires examination of direct conduct, negligence, regulatory failures and decisions contributing to environmental harm. Branch and Minkova (2023) ^[6] stated that international criminal law remains limited in addressing environmental destruction because existing approaches focus mainly on individual offenders rather than organisations and economic activities responsible for ecological damage. The environmental consequences of oil production and related activities in Nigeria present the need to examine whether ecocide and environmental criminal liability can provide stronger legal responses to severe ecological destruction. This study examined Nigerian existing legal framework and assesses the possibility of recognising ecocide as a basis for addressing environmental devastation.

Ecocide as an Emerging International Crime

The concept of ecocide developed from concerns that severe environmental destruction caused by human activities produce consequences beyond ordinary environmental violations. Early discussions focused on environmental warfare, particularly the destruction caused during the Vietnam War through the use of chemical defoliants such as Agent Orange by the United States military. Falk (1973) ^[15] examined the ecological consequences of the conflict and stated that destruction of forests, agricultural land and ecosystems required legal attention beyond existing rules governing armed conflict. The term “ecocide” derives from the Greek *oikos* and the Latin *caedere*, meaning habitation or home and destruction or killing respectively, conveying the idea of “the killing of our home” (Unuigbo-Osaheni, 2020) ^[52]. The concept showed that environmental destruction affects ecological systems, human communities and livelihoods dependent on natural resources. The development of ecocide as a legal concept arose from concerns that existing legal mechanisms were inadequate for addressing extensive ecological destruction. Higgins, Short and South (2013) ^[24] posited that environmental damage resulting from warfare, industrial activities, pollution and resource exploitation reach a level comparable to internationally condemned forms of harm. Ecocide has also been examined through green criminology, which considers environmental harm as conduct capable of causing serious injury to ecosystems, communities and future generations (White, 2022; Hossain, 2025; Fernando *et al.*, 2026) ^[16, 17, 25]. The concept seeks to distinguish ordinary environmental offences from destruction involving severe, widespread, or long-term consequences.

Industrial activities and resource extraction have increased attention towards ecocide as a possible international crime. In Nigeria, petroleum exploration, illegal bunkering, pipeline vandalism, crude oil theft and artisanal refining have contributed to contamination of land and water resources, biodiversity loss and damage to livelihood systems in the Niger Delta (Green *et al.*, 2025) ^[21]. Nigerian courts have recognised the legal consequences of severe environmental harm. In *Jonah Gbemre v. Shell Petroleum Development Company Nigeria Ltd* Others (2005) ^[30] AHRLR 151 (NgHC 2005), the Federal High Court held that continuous gas flaring violated the constitutional rights to life and dignity under sections 33 and 34 of the Constitution and Articles 4, 16 and 24 of the African Charter on Human and Peoples’ Rights. The contemporary movement for recognition of ecocide has developed from environmental advocacy into international criminal law discourse. Higgins defined ecocide as “the extensive damage to, destruction of or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an event that peaceful enjoyment by the inhabitants of that territory has been severely diminished” (Higgins, 2015, as cited in Unuigbo-Osaheni, 2020) ^[22, 52]. This definition links ecological destruction with the effects experienced by communities whose survival depends on environmental resources.

The Independent Expert Panel established by the Stop Ecocide Foundation proposed a legal definition in 2021, describing ecocide as “unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts” (Higgins, Short &

South, 2021)^[23]. The definition introduces three principal requirements: unlawful or wanton conduct, knowledge of a substantial likelihood of harm and environmental damage reaching a severe, widespread, or long-term threshold. The requirement of knowledge establishes a mental element based on awareness of environmental risks rather than proof of a specific intention to destroy ecosystems. The severity requirement distinguishes ecocide from regulatory breaches by focusing on destruction capable of disrupting ecological functions or threatening human wellbeing (Higgins, Short & South, 2021)^[23]. Existing international criminal law provides limited protection against environmental destruction occurring outside armed conflict. Article 8(2)(b)(iv) of the Rome Statute criminalises intentional attacks during international armed conflict causing widespread, long-term and severe damage to the natural environment where such damage is excessive in relation to anticipated military advantage (International Criminal Court, 1998). The provision recognises environmental destruction as criminal conduct but remains restricted to wartime situations.

Environmental damage arising from extractive industries, industrial operations, illegal resource exploitation and regulatory failures during peacetime remains outside the direct jurisdiction of the International Criminal Court (Minkova, 2021)^[35]. The proposed crime of ecocide seeks to address this limitation by extending criminal accountability to severe environmental destruction occurring during peacetime (Green *et al.*, 2025)^[21]. The proposal to recognise ecocide as the fifth international crime has generated debate concerning its relationship with genocide, crimes against humanity, war crimes and aggression. Supporters argue that environmental destruction threaten human survival, community stability and ecological systems. Unuigbo and Osaheni (2020)^[52] explain that ecocide differs from existing international crimes because the environment itself becomes the immediate object of protection, while harm to humans arises from ecological destruction. The Stop Ecocide Foundation proposal has received attention from states facing serious environmental threats, with Vanuatu, Fiji and Samoa supporting efforts in 2024 to introduce ecocide in the Rome Statute framework (ELA, 2024).

The Niger Delta illustrates the relevance of ecocide debates. Illegal petroleum activities, including oil theft, pipeline vandalism and artisanal refining, have contributed to contamination of soil, rivers, groundwater and agricultural lands. Green *et al.* (2025)^[21] associate these activities with oil spills, mangrove destruction, fisheries decline and biodiversity loss. The United Nations Environment Programme assessment of Ogoniland recorded extensive petroleum contamination affecting land and water resources, including pollution levels exceeding acceptable drinking water standards (United Nations Environment Programme [UNEP], 2011)^[51].

The environmental consequences of petroleum pollution were also addressed in Social and Economic Rights Action Center (SERAC) Center for Economic and Social Rights (CESR) v. Nigeria, Communication No. 155/96 (2001)^[47]. The African Commission on Human and Peoples' Rights held that Nigeria violated Articles 16 and 24 of the African Charter by failing to prevent environmental degradation arising from oil exploitation in Ogoniland and failing to protect affected communities. In SERAP v. Federal

Republic of Nigeria, ECW/CCJ/JUD/18/12 (2012)^[44], the ECOWAS Community Court of Justice held that Nigeria failed to protect the right to a satisfactory environment under Article 24 of the African Charter and directed the government to take measures to restore environmental conditions in affected areas.

Environmental criminal liability concerns responsibility for conduct causing serious ecological harm. Traditional environmental enforcement has relied on administrative penalties, compensation, licensing systems and regulatory compliance. Severe environmental destruction raises questions regarding whether these mechanisms provide adequate accountability for individuals, corporations and state institutions involved in harmful activities. Lord (2013)^[34] argues that natural persons and legal persons should bear responsibility under criminal, civil and administrative systems because environmental harm result from individual decisions or organisational conduct. Corporate responsibility remains relevant because companies possess technical capacity and decision-making authority connected with activities producing ecological damage. Eman *et al.* (2009)^[14] describe corporate environmental crime as violations arising from business activities that breach duties owed to society and the environment. State-corporate crime theory examines situations where government institutions and corporations contribute to environmental harm through approval, cooperation, or failure to prevent harmful practices (Michalowski & Kramer, 2006). Green and Ward (2000)^[20] explain that state responsibility arise from direct conduct or failure to perform regulatory duties necessary to prevent harm. This principle was reflected in SERAP v. Federal Republic of Nigeria (2012),^[44] where the ECOWAS Community Court recognised Nigerian responsibility for failing to regulate and prevent environmental degradation in the Niger Delta despite the involvement of private oil companies.

Legal, Institutional and Environmental Framework in Nigeria

1. Constitutional Protection of the Nigerian Environment

Section 20 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) provides constitutional recognition of environmental protection by directing government to protect and improve the environment and safeguard Nigerian water, air, land, forest and wildlife resources. Barigbon (2021)^[5] identifies the Constitution as part of Nigerian environmental regulatory foundation. Despite this recognition, Section 20 falls under Chapter II of the Constitution, which contains the Fundamental Objectives and Directive Principles of State Policy. Nigerian constitutional interpretation treats these provisions as generally non-justiciable unless legislation gives them enforceable legal effect. In Archbishop Okogie v. Attorney-General of Lagos State (1981)^[4] 2 NCLR 337, the Supreme Court held that provisions contained in Chapter II cannot ordinarily be enforced directly before Nigerian courts. The constitutional limitation affects environmental accountability because affected communities cannot rely solely on Section 20 to compel government action against ecological destruction. Protection of the environment has therefore depended on statutory legislation, regulatory institutions and judicial interpretation of enforceable rights. Nigerian courts have, however, relied on constitutional

rights and international human rights instruments to address environmental harm. In *Jonah Gbemre v. Shell Petroleum Development Company Nigeria Ltd* Others (2005) ^[30] AHRLR 151 (NgHC), the Federal High Court held that gas flaring violated the constitutional rights to life and dignity under sections 33 and 34 of the Constitution and Articles 4, 16 and 24 of the African Charter on Human and Peoples' Rights. The case demonstrates judicial willingness to address environmental harm through rights-based claims despite the limitations of Section 20. Nigerian environmental legislation includes the National Environmental Standards and Regulations Enforcement Agency Act 2007, the National Oil Spill Detection and Response Agency Act, the Environmental Impact Assessment Act, petroleum legislation and pollution control regulations. Barigbon (2021) ^[5] maintains that the difficulty lies in enforcing these laws rather than their absence.

2. National Oil Spill Detection and Response Agency (NOSDRA)

The National Oil Spill Detection and Response Agency (NOSDRA) was established by the NOSDRA (Establishment) Act 2006 as a specialised agency under the Federal Ministry of Environment to coordinate the implementation of the National Oil Spill Contingency Plan (NOSCP) (NOSDRA, 2006). The Agency is responsible for monitoring oil spill incidents, ensuring compliance with environmental legislation in the petroleum sector, coordinating oil spill response and clean-up operations, conducting post-spill environmental assessments, and enforcing reporting obligations on oil companies (NOSDRA, 2020). It also serves as the lead agency for oil spill preparedness and emergency response in Nigeria and works with other government agencies, oil companies, and affected communities to minimise environmental damage resulting from petroleum activities (Chukwuemeka *et al.*, 2025) ^[9]. These institutions constitute the core of Nigerian environmental governance framework. While the Federal Ministry of Environment develops environmental policy and exercises supervisory oversight, NOSDRA performs specialised operational and enforcement functions relating to oil pollution.

Despite their statutory mandates, oil pollution remains a persistent challenge, particularly in the Niger Delta, due to inadequate funding, limited technical capacity, weak inter-agency coordination, delayed remediation, and difficulties in enforcing environmental standards against polluters (Omokaro *et al.*, 2025) ^[41]. Judicial decisions have reinforced the importance of these regulatory institutions in protecting environmental rights. In *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation* (2019) ^[8] 5 NWLR (Pt. 1666) 518 (SC), the Supreme Court recognised environmental protection as a matter of significant public interest, thereby supporting the role of regulatory agencies in preventing and addressing environmental degradation. Similarly, in *Shell Petroleum Development Company (Nigeria) Ltd v. Farah* (1995) ^[45] and *Shell Petroleum Development Company (Nigeria) Ltd v. Isaiah* (2001) ^[46], the Supreme Court affirmed the liability of oil companies for pollution damage arising from petroleum operations, demonstrating that effective environmental governance depends on both judicial enforcement and the operational effectiveness of institutions such as the Federal Ministry of Environment and NOSDRA

3. National Environmental Standards and Regulations Enforcement Agency (NESREA)

The NESREA Act 2007 established NESREA as a specialised environmental enforcement agency responsible for implementing environmental standards and regulations. Barigbon (2021) ^[5] identifies the Act as one of the principal components of Nigerian environmental regulatory framework. The creation of NESREA reflects an attempt to strengthen environmental compliance through institutional enforcement. However, continuing ecological damage demonstrates difficulties in converting statutory authority into effective environmental control. Although the Act establishes legal powers to control pollution and enforce environmental standards, practical enforcement remains affected by institutional limitations Barigbon (2021) ^[5] argues that Nigerian challenge is poor enforcement rather than lack of legal provisions, while Green *et al.* (2025) ^[21] identify limited monitoring capacity, corruption concerns and inadequate resources as factors affecting regulatory performance. In *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation* (2019) ^[8] 5 NWLR (Pt. 1666) 518 (SC), the Supreme Court recognised environmental protection as a matter affecting the public interest. In *Shell Petroleum Development Company (Nigeria) Ltd v. Farah* (1995) ^[45] and *Shell Petroleum Development Company (Nigeria) Ltd v. Isaiah* (2001) ^[46], the Supreme Court recognised liability for pollution damage caused by petroleum activities. These decisions demonstrate the compensation-based character of Nigerian environmental liability. The decision supports the need for regulatory institutions capable of addressing pollution affecting communities and natural resources.

4. Nigerian Upstream Petroleum Regulatory Commission (NUPRC)

The NUPRC forms part of Nigerian petroleum regulatory structure. Green *et al.* (2025) ^[21] identify the Commission role in petroleum sector regulation and reporting. The NUPRC reported that Nigeria possesses approximately 37 billion barrels of proven oil reserves, although petroleum production continues to face challenges associated with theft, operational losses and illegal activities (NUPRC, 2024). The existence of petroleum regulatory institutions has not eliminated illegal activities in the sector. Green *et al.* (2025) ^[21] identify weak intelligence coordination, inadequate technology, corruption concerns and enforcement challenges as factors affecting control of oil theft. In *Shell Petroleum Development Company (Nigeria) Ltd v. Isaiah* (2001) ^[46] 11 NWLR (Pt. 723) 168, the Supreme Court affirmed liability arising from oil pollution damage and recognised the responsibility of petroleum operators for environmental consequences connected with their activities.

5. Harmful Waste (Special Criminal Provisions) Act

The Harmful Waste (Special Criminal Provisions, etc.) Act 1988 was enacted following the notorious Koko toxic waste incident of 1988, which exposed weaknesses in Nigerian environmental protection regime (Liu, 1992) ^[33]. The Act criminalises the importation, transportation, storage, deposit, sale and dumping of harmful waste in Nigeria and establishes one of the country's strictest environmental criminal liability regimes. It prohibits all activities relating

to harmful waste on land, territorial waters, inland waterways and the Exclusive Economic Zone, while prescribing life imprisonment and forfeiture of the land, vehicles, aircraft, containers or other facilities used in committing the offence. The Act also extends criminal liability to accomplices, corporate bodies and persons who attempt or facilitate the commission of offences, thereby emphasising deterrence through severe sanctions rather than administrative penalties (Ijaiya & Joseph, 2014) ^[27]. It further empowers law enforcement officers to search, seize, arrest without warrant in appropriate circumstances, seal contaminated sites, and provides for civil liability in addition to criminal prosecution, with exclusive jurisdiction vested in the Federal High Court. The Act remains a significant component of Nigerian environmental regulatory framework because it addresses hazardous waste as a matter of national security and public health rather than merely environmental management (Ekott, 2026) ^[13].

Nevertheless, its practical effectiveness has been constrained by the relatively infrequent prosecution of offenders, inadequate monitoring of hazardous waste movements, weak institutional coordination and limited enforcement resources (Amechi & Oni, 2019; Ekott, 2026) ^[2, 13]. Although agencies such as NESREA, the Nigeria Customs Service and other environmental regulators share responsibility for preventing illegal waste trafficking, enforcement challenges continue to undermine the Act's deterrent objectives. Consequently, scholars generally contend that the principal challenge lies not in the absence of comprehensive legal provisions but in ensuring consistent implementation, inter-agency collaboration and effective prosecution of environmental crimes. In SERAC and CESR v. Nigeria (2001), the African Commission recognised that environmental pollution affecting communities violate protected human rights. Adarhere and Eda (2026) ^[1] stated that environmental responsibility in Nigeria should extend beyond direct offenders to include corporations, regulatory authorities, facilitators and other actors whose conduct contributes to ecological harm.

6. Environmental Impact Assessment Act

The Environmental Impact Assessment Act requires assessment of activities capable of affecting the environment before commencement. Barigbon (2021) ^[5] identifies the Act as part of Nigerian environmental regulatory framework. Environmental assessment requirements are intended to prevent ecological damage by identifying risks before industrial activities begin. In SERAC and CESR v. Nigeria (2001), the African Commission recognised the obligation of states to take preventive measures against environmental harm. Despite the existence of assessment requirements, repeated pollution incidents in petroleum-producing communities demonstrate difficulties in monitoring compliance and enforcing environmental obligations. In Jonah Gbemre v. Shell Petroleum Development Company Nigeria LtdOthers (2005) ^[30], the Federal High Court held that petroleum operations causing serious environmental harm violate constitutional and human rights protections. Nigeria possesses a wide range of environmental laws capable of regulating harmful activities (Ogbonnah, 2026) ^[39]. However, the continued occurrence of severe ecological damage demonstrates limitations in enforcement and

criminal accountability. The treatment of environmental destruction mainly as a regulatory violation rather than a serious criminal offence creates difficulties in addressing conduct involving widespread and long-term damage. The Nigerian experience supports examination of stronger environmental criminal liability mechanisms, including the possible relevance of ecocide as a legal response to severe ecological destruction.

Challenges Facing Ecocide and Environmental Criminal Liability in Nigeria

1. Absence of Ecocide-Specific Criminal Legislation

Nigeria lacks a specific criminal offence dealing with ecocide. Nigerian environmental legislation regulates pollution, resource exploitation, waste disposal and environmental management, but does not create a distinct offence for conduct causing widespread, long-term, or severe destruction of ecosystems. Barigbon (2021) ^[5] explains that environmental offences in Nigeria are treated as breaches of existing regulatory requirements rather than recognition of environmental destruction as an independent criminal wrong. The author states that environmental crimes are mainly “contravention of pre-existing laws sanctioning illegal conducts with criminal penalties and based on environmental management regulations” (Barigbon, 2021) ^[5]. In *Jonah Gbemre v. Shell Petroleum Development Company Nigeria LtdOthers* (2005) ^[30] AHRLR 151 (NgHC), the Federal High Court addressed environmental damage arising from gas flaring through constitutional rights and the African Charter on Human and Peoples’ Rights rather than an offence directed at ecosystem destruction. The case shows reliance on existing rights-based mechanisms where Nigerian law lacks a crime equivalent to ecocide.

Illegal oil bunkering, pipeline vandalism, artisanal refining and petroleum contamination cause ecological damage, affect human health, reduce economic opportunities and damage resources required by future generations. Existing responses have focused on regulatory penalties, compensation claims and prosecution of related economic offences rather than criminal responsibility for ecological destruction itself (Green *et al.*, 2025) ^[21]. In *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria*, Communication No. 155/96 (African Commission on Human and Peoples’ Rights, 2001) ^[47], the Commission recognised that petroleum-related environmental degradation in Ogoniland violated rights protected under Articles 16 and 24 of the African Charter. Higgins, Short and South (2021) ^[23] argue that excluding ecocide from the Rome Statute leaves severe environmental destruction without independent recognition under international criminal law. Barigbon (2021) ^[5] recommends stronger criminal penalties for environmental offences and recognition of environmental protection as an enforceable legal right. Section 20 of the 1999 Constitution directs government to protect and improve the environment, but the provision falls under Chapter II and contains non-justiciable directive principles. In *Archbishop Okogie v. Attorney-General of Lagos State* (1981) ^[4] 2 NCLR 337, the Supreme Court held that Chapter II provisions cannot ordinarily be enforced unless legislation gives them legal effect.

2. Corporate Criminal Accountability Challenges

Corporate accountability remains a challenge in environmental criminal liability because ecological destruction in the Niger Delta involves multinational oil corporations, government agencies, contractors and other economic actors. Barigbon (2021) ^[5] identifies multinational oil corporations as contributors to environmental degradation and argues that weak resource governance allows companies to operate under inadequate environmental control. The author states that “poor or weak natural resource governance in a weak state such as Nigeria results in MNOCs (corporation) neglecting or taking advantage of lax environmental regime” (Barigbon, 2021) ^[5]. Nigerian courts have recognised that petroleum companies bear responsibility for environmental harm arising from their operations. In *Shell Petroleum Development Company (Nigeria) Ltd v. Farah* (1995) 3 NWLR (Pt. 382) 148, the Supreme Court upheld liability against Shell for pollution damage caused by oil operations. The decision confirms corporate responsibility where company activities contribute to environmental injury. Environmental liability in Nigeria has relied on compensation, remediation and financial penalties rather than criminal punishment. Barigbon (2021) ^[5] observes that “only fines and charges of damages have been imposed. Still no deterrent fine commiserate with environmental offence has been imposed by a Nigerian court.” Monetary remedies may not correspond with the ecological effects of pollution on land, water, biodiversity and community livelihoods. In *Shell Petroleum Development Company (Nigeria) Ltd v. Isaiah* (2001) ^[46] 11 NWLR (Pt. 723) 168, the Supreme Court affirmed liability arising from oil pollution through compensation rather than criminal responsibility for ecological destruction. Green *et al.* (2025) ^[21] argue that environmental destruction linked to oil theft and petroleum pollution involves corporate negligence, regulatory failures, internal facilitators and international actors involved in illegal petroleum transactions. The United Nations Environment Programme assessment of Ogoniland identified extensive contamination requiring environmental restoration (UNEP, 2011) ^[21]. Amnesty International (2020) ^[37] raised concerns regarding delays in remediation and continuing contamination in affected communities. Branch and Minkova (2023) ^[6] argue that ecocide discussions must address corporate involvement because focusing only on individual offenders conceals the role of organisations responsible for environmental harm.

3. Evidentiary and Causation Challenges

Environmental criminal prosecutions require evidence establishing the existence, extent and source of ecological damage. In Nigerian oil-producing regions, obtaining reliable evidence concerning pollution incidents has been difficult due to geographical conditions, security challenges, delayed reporting and weaknesses in monitoring systems. Steiner (2010) ^[48] identifies difficulties in measuring oil pollution, including inaccessible spill locations, delayed discovery of contamination, volatility of Nigerian crude oil, under-reporting by companies and inadequate government oversight. The evidentiary challenges associated with oil pollution litigation were considered in *Shell Petroleum Development Company (Nigeria) Ltd v. Farah* (1995) ^[45] 3 NWLR (Pt. 382) 148. The Supreme Court examined evidence connecting petroleum operations with

environmental damage and upheld liability where the causal relationship was established. Barigbon (2021) ^[5] states that “relying on the polluter to know when an environmental crime has been committed is quite worrisome.” Differences between spill figures reported by petroleum companies, corporate sustainability reports and other sources create uncertainty regarding the scale of environmental damage. Scientific evidence was relevant in *Jonah Gbemre v. Shell Petroleum Development Company Nigeria Ltd Others* (2005) ^[30] AHRLR 151 (NgHC), where environmental information concerning gas flaring supported the Court finding that continued flaring affected constitutionally protected rights.

Causation presents difficulties because ecological damage results from multiple activities occurring over time. Branch and Minkova (2023) ^[6] explain that environmental destruction involves interactions between human activities and ecological processes, making direct attribution difficult. Ecocide prosecutions require evidence linking accused persons or entities to environmental harm meeting the required legal threshold. The problem of multiple contributors to environmental harm was recognised in *SERAC and CESR v. Nigeria* (2001). The African Commission attributed responsibility to the State for failing to regulate, monitor and prevent damage caused in Ogoniland. Definition uncertainty affects prosecution requirements. Higgins, Short and South (2021) ^[23] argue that an ecocide offence must establish clear standards distinguishing serious environmental destruction from ordinary regulatory breaches. An unclear definition creates uncertainty regarding conduct capable of attracting criminal liability.

4. Institutional and Enforcement Limitations

Environmental criminal liability in Nigeria is affected by weaknesses in regulatory and enforcement institutions. Barigbon (2021) ^[5] argues that Nigerian environmental problems result from ineffective implementation rather than the absence of legal rules. Environmental agencies and legislation exist, yet regulatory institutions face difficulties relating to independence, resources and enforcement capacity. The failure of regulatory institutions was addressed in *SERAC and CESR v. Nigeria* (2001), where the African Commission held that Nigeria violated the African Charter by failing to protect communities from environmental degradation caused by petroleum activities. Barigbon (2021) ^[5] criticises the relationship between government institutions and multinational oil corporations, stating that “this collusion or cozy relationship between these parties (the state and the MNOCs) has undermined environmental governance in Nigeria.” State responsibility was considered in *SERAP v. Federal Republic of Nigeria*, ECW/CCJ/JUD/18/12 (ECOWAS Community Court of Justice, 2012) ^[44]. The Court held that Nigeria failed to take adequate measures to prevent environmental degradation in the Niger Delta and required restoration and protection measures.

Oil theft illustrates continuing enforcement difficulties. Omo and Etuvoata (2021) and Green *et al.* (2025) ^[21, 40] identify corruption, weak monitoring systems, poor coordination among security agencies and possible official involvement as factors sustaining illegal petroleum activities. Green *et al.* (2025) ^[21] report 7,143 pipeline vandalism incidents between 2017 and 2021, resulting in

₦471 billion in repair costs and the loss of 208.6 million barrels of crude oil. In *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation* (2019) ^[8] 5 NWLR (Pt. 1666) 518 (SC), the Supreme Court recognised the importance of public interest environmental actions. Barigbon (2021) ^[5] argues that environmental offences remain treated mainly as regulatory breaches rather than distinct criminal offences, affecting accountability for severe ecological destruction.

5. Conflict Between Economic Development and Environmental Protection

The relationship between petroleum development and environmental protection creates difficulties for environmental criminal accountability in Nigeria. Oil remains a major source of national revenue and foreign exchange, creating dependence on petroleum production despite environmental harm experienced by oil-producing communities. Barigbon (2021) ^[5] argues that reliance on petroleum revenue has influenced regulatory decisions and weakened environmental protection. In *SERAC and CESR v. Nigeria* (2001), the African Commission held that economic development activities cannot justify environmental destruction that violates protected rights. Barigbon (2021) ^[5] argues that “the unsustainable drive for industrialization, development and capital accumulation has occasioned colossal environment damages by the action and inactions of corporations in connivance with the state.” The Niger Delta reflects this conflict. Although the region contributes substantially to Nigerian petroleum economy, many communities continue to experience pollution, poverty and ecological decline. Imobighe (2011) ^[28] observes that oil-producing communities remain affected by underdevelopment despite their contribution to national revenue.

Ugor (2013) ^[50] links these conditions with resentment and participation by some local actors in illegal petroleum activities. In *SERAP v. Federal Republic of Nigeria* (2012) ^[44], the ECOWAS Community Court rejected economic considerations as a justification for inadequate environmental protection and affirmed Nigerian responsibility to protect and restore affected environments. Unuigbo and Osaheni (2020) ^[52] argue that economic development should incorporate environmental protection and avoid policies that undermine ecological conditions required by future generations. Branch and Minkova (2023) ^[6] recognise that ecocide discussions must account for development concerns in resource-dependent states. The Nigerian experience demonstrates that environmental criminal liability depends on legal recognition of severe ecological destruction, corporate accountability, reliable evidence and effective regulatory enforcement.

Global Approaches and Lessons for Nigerian Environmental Criminal Reform

1. Ecocide Criminalisation

The international development of ecocide as an environmental crime provides lessons for strengthening Nigerian environmental criminal law. The Independent Expert Panel established by the Stop Ecocide Foundation proposed liability for unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term environmental damage (Higgins, Short & South, 2021) ^[23]. The proposed

definition provides guidance for distinguishing ordinary environmental violations from conduct capable of causing extensive ecological destruction. Higgins defined ecocide as “the extensive damage to, destruction of or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an event that peaceful enjoyment by the inhabitants of that territory has been severely diminished” (Higgins, 2015, as cited in Unuigbo-Osaheni, 2020) ^[22, 52]. The recognition of ecocide in national legal systems provides a comparative lesson for Nigeria. France has adopted ecocide-related provisions in its environmental legal framework, Belgium has recognised ecocide in national law, and Scotland has proposed legislation addressing major environmental destruction and accountability for persons responsible for serious ecological harm (Carrington, 2025) ^[7].

The Council of Europe Convention on the Protection of the Environment through Criminal Law encourages states to criminalise serious environmental offences and strengthen national enforcement systems (Gardner, 2025) ^[18]. These developments demonstrate that severe environmental destruction can attract criminal responsibility rather than being treated only through administrative sanctions. Nigerian Niger Delta provides a strong justification for adopting a specific ecocide offence. Oil theft, illegal refining, pipeline vandalism and petroleum pollution have damaged rivers, wetlands, farmland and ecosystems, affecting fisheries, food production, health and livelihoods (Green *et al.*, 2025) ^[21]. A Nigerian ecocide offence should identify prohibited conduct, the required mental element and the level of environmental damage necessary for criminal liability.

2. Environmental Rights Protection

International environmental jurisprudence demonstrates that environmental protection is connected with the protection of human rights and community interests. In *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, ICJ Reports 1996 ^[32], the International Court of Justice recognised that the environment represents the living space, quality of life and cultural heritage of present and future generations. The Court acknowledged that States possess obligations to protect the natural environment. Nigeria can draw lessons from the preventive approach recognised in *Pulp Mills on the River Uruguay* (Argentina v. Uruguay), Judgment, ICJ Reports 2010 ^[43]. The International Court of Justice confirmed that States have obligations to conduct environmental impact assessments where activities create risks of significant environmental harm. This approach supports the use of scientific evidence in determining environmental liability and assessing ecological damage.

The relationship between environmental protection and human rights was recognised in Advisory Opinion OC-23/17, *Environment and Human Rights*, Inter-American Court of Human Rights (2017). The Court recognised that environmental degradation affects fundamental rights and that States have obligations to prevent significant environmental damage. This reasoning provides guidance for Nigeria in protecting communities affected by petroleum pollution and ensuring that environmental harm receives legal attention beyond financial compensation. The Nigerian experience reflects the need for stronger protection of environmental rights. In *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social*

Rights (CESR) v. Nigeria, Communication No. 155/96 (African Commission on Human and Peoples' Rights, 2001) ^[47], the African Commission held that Nigeria violated Articles 16 and 24 of the African Charter by failing to protect communities from environmental degradation caused by oil exploitation in Ogoniland. The decision demonstrates the responsibility of States to regulate corporate activities and protect communities from environmental harm.

3. Environmental Criminal Liability

Comparative developments in environmental criminal law demonstrate the need for Nigeria to create clearer criminal responsibility for serious ecological destruction. Nigeria should enact a specific ecocide offence based on severe, widespread or long-term environmental damage. A defined offence would separate serious ecological destruction from ordinary regulatory breaches and provide clearer grounds for prosecution. The principle of legality requires criminal offences to be established through clear legal provisions. In *Aoko v. Fagbemi* (1961) ^[3] 1 All NLR 400, the Supreme Court held that criminal liability must arise from offences established by law. Nigerian ecocide legislation should define prohibited conduct, the mental element required for liability and the environmental consequences necessary for conviction. Scientific evidence should guide determination of whether conduct reaches the level of ecocide. In *Pulp Mills on the River Uruguay* (Argentina v. Uruguay), Judgment, ICJ Reports 2010 ^[43], the International Court of Justice recognised environmental impact assessment as necessary where activities create risks of serious environmental harm. This approach supports the use of scientific assessment in Nigerian environmental prosecutions.

4. Corporate Accountability

International environmental criminal law provides lessons for improving corporate responsibility in Nigeria. Environmental destruction associated with petroleum activities frequently involves corporate decisions, operational failures and inadequate supervision. Nigeria should strengthen duties imposed on companies, directors, contractors and responsible officers involved in activities capable of causing ecological harm. Branch and Minkova (2023) ^[6] identify corporate accountability as an important issue in ecocide discussions because large-scale environmental destruction involves business organisations. Gray (1996) ^[19] and Branch and Minkova (2023) ^[6] note that earlier ecocide proposals recognised corporations and other legal persons as potential offenders. Nigerian courts have recognised corporate responsibility for environmental pollution. In *Shell Petroleum Development Company (Nigeria) Ltd v. Farah* (1995) ^[45] 3 NWLR (Pt. 382) 148, the Supreme Court upheld liability against Shell for pollution damage arising from petroleum operations. In *Shell Petroleum Development Company (Nigeria) Ltd v. Isaiah* (2001) ^[46] 11 NWLR (Pt. 723) 168, the Supreme Court affirmed liability against a petroleum company for pollution resulting from its operations. Barigbon (2021) ^[5] explains that corporate environmental crime arises through acts, omissions and failures of employees or representatives. The Companies and Allied Matters Act provide a basis for corporate criminal responsibility, while in *Tesco Supermarkets Ltd v. Nattrass* [1972] ^[49] AC 153 provides

comparative guidance concerning attribution of corporate conduct.

5. Environmental Enforcement

Comparative experience demonstrates that environmental criminal laws require effective investigation, prosecution and sanctions. Nigeria should strengthen environmental enforcement through specialised investigative and prosecutorial units with technical expertise, adequate funding and access to scientific evidence. In *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation* (2019) 5 NWLR (Pt. 1666) 518 (SC), the Supreme Court recognised the importance of public interest environmental litigation and confirmed that environmental protection involves interests beyond private compensation claims. Specialised environmental courts or judicial divisions could improve adjudication of environmental offences. Cooperation with ECOWAS, the United Nations Office on Drugs and Crime and INTERPOL would assist Nigeria in addressing petroleum-related environmental offences involving organised networks. Green *et al.* (2025) ^[21] recommend stronger investigation and prosecution mechanisms for corruption connected with oil theft and environmental offences. Effective sanctions should include restoration obligations, financial penalties and stronger consequences for repeat offenders. In *Commission of the European Communities v. Council of the European Union*, Case C-176/03 (European Court of Justice, 2005), the Court confirmed that criminal measures may be required to ensure effective enforcement of environmental obligations.

6. Lesson from Community Participation

International environmental protection approaches showed the value of community involvement in preventing and responding to ecological damage. Nigeria should establish reporting mechanisms, support community environmental monitoring and ensure affected communities have access to legal remedies. Communities affected by petroleum pollution possess knowledge concerning environmental changes, illegal activities and damage to local ecosystems. UNEP (2011) identified extensive contamination in Ogoniland and the need for environmental restoration, while Amnesty International (2020) ^[37] reported concerns regarding delays in remediation. The protection of future generations was recognised in *Urgenda Foundation v. State of the Netherlands*, Supreme Court of the Netherlands (2019) ^[53], where the Court held that government obligations include measures preventing environmental harm affecting future populations. To address the menace, Nigeria can strengthen environmental criminal accountability through an ecocide offence, corporate liability, effective enforcement institutions and community participation. These reforms would provide stronger protection against ecological destruction in the Niger Delta and other affected regions.

Conclusion

This study examined ecocide and environmental criminal liability in relation to petroleum-related environmental destruction in Nigeria. The analysis demonstrates that Nigeria has several environmental laws regulating pollution, waste disposal, petroleum activities and environmental management, yet these laws have not provided adequate accountability for severe ecological destruction. The Niger

Delta experience shows that oil spills, illegal refining, pipeline vandalism and oil theft have caused lasting damage to ecosystems, livelihoods and community wellbeing. The absence of an ecocide offence in Nigerian law limits the ability of the legal system to address environmental destruction involving extensive, widespread and long-term harm. Recognising ecocide as a criminal offence would provide a stronger basis for addressing conduct that threatens ecological systems and affected communities. The study also establishes that responsibility for environmental destruction should not be limited to individuals directly involved in illegal activities. Corporations, regulatory bodies, facilitators and other actors whose actions or failures contribute to environmental damage require accountability. Effective reform requires clearer environmental offences, stronger penalties, improved investigation procedures and better prosecution of serious ecological harm. Recognition of ecocide in Nigeria would strengthen existing environmental laws by addressing destruction beyond ordinary regulatory violations. The Niger Delta experience demonstrates the need for legal reforms capable of protecting ecosystems, supporting affected communities and preventing future environmental damage.

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