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Editorial

This issue of *NIU Journal of Legal Studies* touches on the Issues such as Public Policy Implications of Immunity Practice in U.S.A and Nigeria Jurisdictions, Combating the Hurdles of Prosecuting Sexual Slavery and Insurgency in Nigeria, Interrogating the Crisis of Prison Congestion in Nigeria and The Role of Law in Ensuring Equitable and Sustainable Use of Water in Africa

One of the papers, in this edition, critically explores relevant legal provisions, constitutional articles, and statutory frameworks in both the United States and Nigeria, drawing attention to their similarities and notable distinctions, particularly concerning which officials are covered and the scope of their protection. While this paper in its submission does not advocate for the outright elimination of constitutional immunity due to the risks of politically motivated lawsuits from habitual litigants, it strongly recommends that impeachment procedures, as outlined in the Constitution, should be activated in verified instances of constitutional violations.

Another paper examines the surge of sexual violence during armed conflict in Northern Nigeria, primarily driven by Boko Haram's war, its psychological and physical toll on women and girls, and the persistent failure of the Nigerian legal system to hold perpetrators accountable due to outdated laws, lack of political will, and the absence of specialized legal frameworks. The paper therefore concludes that Nigeria must urgently reform its legal system to criminalize conflict-related sexual violence and establish special courts for effective prosecution, thus, ensuring justice for victims and survivors and by extension deterring future violations.

In sum, this issue of *NIU Journal of Legal Studies* features many empirical and theoretical based articles which can be of great benefit to every reader.

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Public Policy Implications of Immunity Practice in U.S.A and Nigeria Jurisdictions

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Abstract. The principle of immunity serves to ensure that individuals occupying high-level public offices—particularly within the executive branch—can carry out their responsibilities without being encumbered by legal distractions. It is a legal shield that grants temporary protection from criminal or civil proceedings for certain officeholders, recognizing the sensitive nature of their positions. This study examines the concept and implementation of immunity within both the Nigerian and American legal systems, assessing its broader implications on governance and public policy. The analysis explores relevant legal provisions, constitutional articles, and statutory frameworks in both countries, drawing attention to their similarities and notable distinctions, particularly concerning which officials are covered and the scope of their protection. In the United States, presidential immunity is rooted in the recognition that the President, due to the global and national significance of executive decisions, could easily become the target of numerous lawsuits. Legal proceedings against the President, if permitted during their term, could lead to significant distractions from the duties of office. Thus, immunity is intended to allow the President to fulfill official functions without being burdened by ongoing litigation or the threat of personal liability, especially in civil matters arising from official acts. In contrast, Nigeria’s constitutional immunity—enshrined in Section 308 of the 1999 Constitution (as amended)—grants broader protection. It bars any legal action, civil or criminal, against the President, Vice President, Governors, and Deputy Governors for the duration of their tenure. This form of immunity is more expansive and applies regardless of the context of the alleged misconduct, effectively insulating the covered officials from prosecution or civil suits during their time in office. This paper adopts a doctrinal method to analyze how immunity affects governance, legal accountability, and public interest in both systems. It evaluates the practical implications of these legal

protections and considers the tension between executive immunity and the rule of law within democratic societies.

Keywords: Article, Immunity clause, Nigeria, Public Policy, USA

1. Introduction

The concept of immunity has its origins in the historical English legal doctrine asserting that "the king can do no wrong," a maxim reflecting the notion that the sovereign was beyond legal reproach. This principle, rooted in English common law, was encapsulated in the Latin phrase *rex non potest peccare*, which translates to "the king cannot commit a wrong." The term "immunity" itself derives from the Latin word *immunitas*, referring to the release of an individual from certain legal duties or obligations.

The foundation of this doctrine lies in the feudal structures of medieval England, where the monarch was regarded as the personification of the State. As the British Empire expanded its reach, this legal principle was adopted in its various colonies and became ingrained in common law traditions.

Immunity can take different forms, commonly categorized as either absolute or qualified. Absolute immunity provides full protection from both civil and criminal proceedings, whereas qualified immunity typically limits protection to specific circumstances, often civil matters, and only in relation to official actions performed in good faith.

In the United States, qualified immunity is generally applied. For example, the President is shielded from civil liability for official actions undertaken in the course of executing presidential duties, as outlined in Article I of the U.S. Constitution.

Conversely, Nigeria upholds a form of absolute immunity under Section 308 of the 1999 Constitution (as amended), which strictly prohibits any civil or criminal legal action against sitting Presidents, Vice Presidents, Governors, or Deputy Governors in their individual capacities while in office.

Globally, the practice of granting immunity to heads of state has gained acceptance and is considered consistent with international norms. For instance, in the notable case of *Mighell v. Sultan of Johore*, the Sultan, who had traveled to the United Kingdom under the alias “Albert Baker,” was sued for breach of promise to marry. Once his real identity was disclosed, the British court recognized his immunity as a foreign sovereign, even though he had attempted to remain anonymous during his visit.

2. Types of Immunity

Sovereign Immunity: This legal provision shields the government and its institutions from being sued without their express approval. In Nigeria, such protections are outlined in the 1999 Constitution (as amended) and reinforced by the State Immunity Act (Cap. 373, Laws of the Federation of Nigeria). The Act restricts legal proceedings against the state unless the government has explicitly waived its immunity. Litigation can only move forward if formal consent or a waiver is granted by the appropriate authority.

Official Immunity (Qualified Immunity): This principle is primarily relevant in civil rights cases involving public officials. Courts typically evaluate whether the actions of such officials breached well-established legal or constitutional rights. In Nigeria, public servants are generally shielded from liability for actions carried out in their official capacity, with protection often stemming from specific legal statutes.

Diplomatic Immunity: Governed by the 1961 Vienna Convention on Diplomatic Relations, diplomatic personnel are granted immunity from both criminal prosecution and civil litigation. This international framework has been domesticated under Nigerian law, allowing accredited diplomats to operate without legal interference in accordance with the treaty’s provisions.

Witness Immunity: In the United States, the Department of Justice oversees the implementation of witness immunity. In Nigeria, such protection is available in criminal proceedings and is typically granted by the Attorney General or based on directives issued by the courts.

3. Immunity under the United States Jurisdiction

Both Nigeria and the United States operate under a constitutional democracy with a presidential system of governance. In the U.S., Article II, Section 4 of the Constitution authorizes the removal of the President, Vice President, and other civil officers through impeachment upon conviction for treason, bribery, or other serious offenses. Notably, the President of the United States benefits from immunity in certain civil contexts. In the landmark case of *Nixon v. Fitzgerald* (1982), the Supreme Court held that a sitting President is entitled to absolute immunity from civil liability for actions performed within the outer limits of their official responsibilities. The judiciary lacks the authority to adjudicate civil suits seeking damages for such official conduct.

In *Clinton v. Jones* (1997), the Court addressed whether presidential immunity extends to actions undertaken prior to taking office. The ruling made clear that it does not, as immunity only applies to conduct linked directly to presidential duties. There has been ongoing debate as to whether the Vice President enjoys similar protection. The Department of Justice, since the 1973 investigation of Vice President Spiro Agnew, has maintained that Vice Presidents are not constitutionally protected from prosecution while in office, unlike the President.

Presidential immunity, in essence, means that as long as the President acts within constitutional bounds, legal actions cannot be brought against them for those decisions. Given the gravity and global impact of presidential functions, immunity is seen as essential to prevent litigation from obstructing official duties. Without this protection, the daily administration of governance could be seriously hampered.

However, this shield does not extend to acts committed before assuming office. While legal proceedings may be postponed, they are not extinguished. The recent criminal conviction of former President Donald Trump marked a historic moment in U.S. legal history, showing that former Presidents can be held liable for personal misconduct after leaving office.

The *Clinton v. Jones* case emphasized that immunity does not protect Presidents from litigation for pre-presidential actions. The recent decision in *Trump v. United States* (2024) suggested a presumption of immunity for actions performed in an official capacity, but not for private conduct. This has led some scholars to argue that impeachment should precede any

criminal prosecution of a sitting President. Although former Presidents continue to be addressed by their title, this does not automatically extend their legal protections post-tenure.

Unlike Nigeria, where immunity for executive officeholders is codified in Section 308 of the 1999 Constitution and interpreted broadly, U.S. presidential immunity has evolved primarily through court rulings. One pivotal early case was *Mississippi v. Johnson* (1866), which laid foundational principles for executive privilege and immunity.

Further developments followed the Watergate scandal in 1972, culminating in *United States v. Nixon*. In this case, operatives linked to Nixon's re-election campaign illegally entered the Democratic National Committee headquarters at the Watergate complex. When confronted with a subpoena to release White House recordings, Nixon argued that executive privilege granted him complete discretion to withhold evidence.

He contended:

That the judiciary lacked authority to compel the President;

That executive privilege was absolute and non-reviewable.

The Supreme Court unanimously rejected Nixon's position. It held:

That the judiciary has the authority to evaluate claims of executive privilege;

That a special prosecutor can subpoena the President;

That confidentiality does not apply when evidence is crucial in a criminal trial.

Consequently, Nixon surrendered the tapes, which led to multiple indictments and ultimately his resignation. He was later pardoned by President Gerald Ford.

This case affirmed the power of courts to compel presidential compliance in criminal matters, although it did not settle the issue of prosecuting a sitting President. The rationale behind presidential immunity in the U.S. is to ensure that the Chief Executive can carry out their duties without the distraction or threat of personal lawsuits. Yet, this protection is not all-encompassing and is subject to constitutional and judicial limitations.

4. Immunity under the Nigeria Jurisdiction

Section 308 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) expressly bars the initiation of civil or criminal proceedings against individuals holding the offices of President, Vice President, Governor, or Deputy Governor in their

private capacities. This provision grants these officeholders complete legal immunity for the duration of their time in office.

The essence of this immunity is to uphold the integrity of high public offices and to prevent the interruption of executive functions through potentially disruptive or frivolous lawsuits. By shielding these leaders from legal distractions, the constitutional clause aims to promote efficient governance and maintain institutional stability.

This legal safeguard, being both civil and criminal in scope, amounts to what is known as absolute immunity, and the relevant constitutional section serves as its statutory foundation.

1) Notwithstanding anything to the contrary in this Constitution, but Subject to Subsection (2) this Section,

No Civil or Criminal Proceeding shall be instituted or continued against a person to whom this section applies during his period of office:

A person to whom this Section applies shall not be arrested or imprisoned during that period either in pursuance of the process of any Court or otherwise; and

No process of any Court requiring or compelling the appearance of a person to whom this Section applies, shall be applied for issued;

It is further stipulated that, in determining whether the statutory time limit for initiating legal action has lapsed against an individual covered by this Section, the duration of their time in office shall be excluded from the calculation.

(3) This constitutional provision is specifically applicable to individuals occupying the offices of the President, Vice President, Governor, or Deputy Governor. The term "period of office" as used within the section denotes the duration during which the individual is actively engaged in performing official duties.

A noteworthy aspect of Nigeria's immunity framework is that the protection is tied to the office itself, not the person occupying it. As such, even if the officeholder wishes to waive this immunity to face judicial proceedings, they are legally unable to do so. Once an individual assumes any of these executive positions, all ongoing civil or criminal matters against them are automatically suspended for the duration of their tenure.

Nonetheless, the absolute nature of this immunity was somewhat clarified in the landmark case of *Fawehinmi*

v. Inspector General of Police. In this case, Chief Gani Fawehinmi approached the Federal High Court seeking an order of mandamus to compel the Inspector General of Police to investigate allegations of criminal conduct against then-Governor Bola Ahmed Tinubu of Lagos State. The High Court rejected the application, prompting an appeal.

The Court of Appeal held that, in line with Section 4 of the Police Act, law enforcement agencies have a statutory duty to investigate reported criminal activities, including those involving persons protected under Section 308 of the Constitution. The court clarified that while such individuals cannot be arrested or detained during their time in office, they are not exempt from being investigated. The Supreme Court later affirmed this position.

In comparison, the United States does not grant absolute immunity to its President from all forms of judicial scrutiny. A sitting President can be compelled by subpoena to provide documents in criminal investigations, demonstrating a narrower application of executive protection.

Many legal scholars and practitioners in Nigeria argue that this immunity provision plays a crucial role in ensuring that the machinery of government operates without interruption from legal entanglements. Its removal will cause dislocation because executives would be distracted by litigations and in the process governance will suffer. As a result, this provision not only serves to uphold the esteem of key executive offices but also acts as a safeguard against disruptive and unnecessary legal actions that could hinder the functioning of government. Legislators have consistently advocated for the continuation of this immunity, noting that the Constitution already outlines a formal process for holding executive officeholders accountable—namely, through impeachment.

Sections 143 and 188 of the 1999 Constitution (as amended) outline the procedures for removing individuals covered by Section 308 from office. These provisions are typically triggered in situations involving verified misconduct, financial impropriety, or abuse of authority.

Although impeachment processes can be politically contentious, they are generally more expedient than prolonged litigation. Furthermore, appeals arising from impeachment are often unsuccessful, especially where constitutional guidelines have been properly observed.

5. Public Policy Implications

Although the concept of immunity has faced considerable debate and criticism, its practical benefits seem to outweigh the perceived drawbacks. In the legal systems examined—specifically Nigeria and the United States—recipients of immunity are often unable to dedicate adequate time or attention to defending themselves in litigation while in office (Okeke, Ojukwu, & Nnamani, 2020). In nations where governance and institutional responsibilities are intense and demanding, removing such legal protections could result in more disruption than benefit. Both countries operate constitutional democracies with active political frameworks, free press, and human rights protections. Without the safeguard of immunity, governance could be slowed by constant legal distractions, including politically motivated lawsuits aimed at weakening current officeholders.

Immunity helps maintain stability within government by shielding key executives from becoming vulnerable to legal entanglements. If an executive were to be frequently subjected to court proceedings while in office, it would risk stalling state functions. A case in point is that of former Illinois Governor Rod Blagojevich in the United States. He was recorded discussing the value of appointing a successor to Barack Obama's Senate seat, referring to it as something "you don't give away for nothing." Blagojevich was eventually prosecuted and convicted, highlighting that in the U.S., state governors do not benefit from the same level of immunity as their Nigerian counterparts.

Nigeria, by contrast, has experienced widespread misuse of the immunity clause. Since the return to democratic rule in 1999, nearly all state governors have been accused or investigated for corrupt practices while in office. However, only a handful have faced convictions once their tenure ended. This pattern aligns with the often-cited Nigerian saying: "When you fight corruption, corruption fights back."

Although the immunity granted is strictly tied to the duration of one's term in office, the problem lies in how many Nigerian governors exploit their time in power to accumulate resources and influence that can later be used to undermine judicial and enforcement institutions. Critics argue that the fight against corruption remains difficult because those who frame the laws and policies tend to leave loopholes that shield political elites from accountability.

While there have been numerous calls by the public and political actors to eliminate immunity, the prevailing sentiment is that elected executives should not be subjected to individual judicial oversight during their terms. Doing so could erode the authority of the offices they hold and by extension, undermine the will of the electorate. From a public policy perspective, prosecuting sitting executives is widely discouraged.

Instead, the Constitution entrusts the legislature with the responsibility to check executive misconduct—primarily through the process of impeachment. This approach ensures that elected officials who breach their constitutional obligations can be removed through democratic means. Eliminating immunity could render citizens' choices meaningless and undermine the democratic process itself, potentially leading to institutional instability and social unrest.

6. Conclusion

In the United States, the concept of immunity is primarily designed to shield the President from disruptive and baseless legal actions. In contrast, Nigeria extends this legal protection to the President, Vice President, Governors, and Deputy Governors, ensuring they are not burdened by frivolous lawsuits. This safeguard enables them to focus on governance and fulfill their official duties effectively, while also preserving the integrity of the offices they occupy. This is the ideal in civilized countries. For instance, in the U.S.A where we have a well-structured, and sophisticated system, immunity aids free flow of governance. Nigeria's implementation of executive immunity has been severely undermined by frequent misuse, largely driven by pervasive corruption and systemic underdevelopment. Rather than acting as a shield for effective governance, immunity has often become a loophole exploited by officeholders to divert public funds with little fear of accountability—even after their tenure ends. Section 308 of the 1999 Constitution appears to offer a level of protection that has, in practice, placed some public officials above the reach of the law.

Numerous court cases have highlighted this concern. For instance, former Bayelsa State Governor Diepreye Alamieyeseigha attempted to invoke his immunity status when detained in the United Kingdom. Similar situations have arisen with other former state executives, such as James Ibori of Delta State, Joshua Dariye of Plateau State, and Jolly Nyame of Taraba State. These instances reflect the broader challenge of holding powerful figures accountable within the current legal framework.

While this submission does not advocate for the outright elimination of constitutional immunity—due to the risks of politically motivated lawsuits from habitual litigants—it strongly recommends that impeachment procedures, as outlined in the Constitution, should be activated in verified instances of constitutional violations.

Both Nigeria and the United States acknowledge immunity as an essential doctrine within their legal systems. However, the procedural frameworks differ significantly. In the United States, immunity is more systematically defined through legislative instruments and includes structured provisions, such as statutory waivers, particularly in relation to federal agencies. Nigeria, on the other hand, relies more heavily on legislative enactments, customary practice, and international obligations. Diplomatic immunity remains a shared principle in both systems, largely governed by the Vienna Convention on Diplomatic Relations.

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Sexual Slavery and Insurgency in Nigeria: Combating the Hurdles of Prosecution

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Abstract. Nigeria has in recent years, recorded an increased number of cases of sexual violence in armed conflict, mainly within the Northern region of the country. This is mainly a result of the activities of the Boko Haram armed group, with so much destructive effect on women and girls within that region. This paper examines the surge of sexual violence during armed conflict in Northern Nigeria, primarily driven by Boko Haram's war, its psychological and physical toll on women and girls, and the persistent failure of the Nigerian legal system to hold perpetrators accountable. The authors further argue that this failure stems from outdated laws, lack of political will, and the absence of specialized legal frameworks. They assert that this impunity emboldens continued violence. The paper concludes that Nigeria must urgently reform its legal system to criminalize conflict-related sexual violence and establish special courts for effective prosecution, thus, ensuring justice for victims and survivors and by extension deterring future violations.

Keywords: Sexual Slavery, Hurdles, Prosecution, Insurgency, Legal framework

1. Introduction

Insurgency as of today constitutes a big threat to international peace and security, and at the same time forms the biggest contributor to humanitarian challenges across the globe. Most of the insurgent group operations are diverse forms, including but not restricted to bombing, sexual violence, abduction of young school girls and adult women, forced marriage, forced pregnancy and the destruction of lives and property.¹ The crime of sexual violence committed against women during periods of armed conflict is just as old as the history of warfare itself.² Thus, for several decades, the bodies of women and young girls were considered as victor's spoils, booty of warfare, collateral damage, for both military and non-state actors alike. Women's bodies were also considered a good incentive for enlisting soldiers into fighting forces. Women and girls, generally suffer from war related sexual crimes such as rape, sexual slavery, forced pregnancy and other brutal forms of sexual and gender-based crimes during periods of armed conflicts. Generally, rape and other forms of sexual violence is traditionally subsumed in a culture of silence, a situation wherein victims reluctantly want to talk about it, and society on the other hand pretends that such crime does not exist.³ Consequently, the crime is either completely unreported, unprosecuted or

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¹ Adetunde Musbau, "Effects of Boko Haram's Insurgency and Violence on

Women in North-Eastern Nigeria, (2022) Vol. 4, No. 1&2, *Veritas Journal of humanities*, at 29

² Christiana Attah, "Boko Haram and sexual terrorism: The Conspiracy of Silence of the Nigerian anti-terrorism laws" (2016) Vol 16 *African Human Rights Law Journal*, at 387

³ *ibid*

unpunished, thus leaving the victims who are predominantly women and girls to languish in suffering without any form reparations or justice.⁴

Interestingly, the Rome statute of the International Criminal Court (ICC) has recently in articles 6, 7, and 8 acknowledged that sexual violence committed during armed conflict constitute crimes of genocide, war crime or the crime against humanity.⁵ This is clearly buttressed following the United Nations Security Council declaration of the various sexual abuses which took place in the former Yugoslavia in 1992 including the systematic rape and detention of women as international crime. By this affirmation, there is now a massive awareness and adjudication of sexual violence committed in wartime across the international community.⁶ Subsequently, the United Nations figured out in 2017 about 40 parties in 10 different conflicts who committed rape and other forms of sexual violence, some of the parties were pinpointed as insurgent groups obviously as a result of their affiliation with the Islamic States and al Qaeda.⁷ It is important to note that wartime sexual violence is often committed against women and men respectively, although sexual violence against men seems to be silent, unreported and unprosecuted owing to issues relating to shame and stigma.⁸

For proper elucidation of the subject matter under review, this article is divided into eight parts including the introduction. Part one of the paper deals with the

historical perspective of Boko Haram operations in Nigeria. Part two, on the other hand x-rays motives behind the use of sexual violence by the insurgent group. Part three, reviews the nature and effects of sexual violence by the Boko Haram group, this part also examines account and personal experiences of victims of sexual violence committed by the Boko Haram Sect. Part four, Captures the legal frameworks for combating sexual violence in Nigeria. Part five, similarly, deals with the Challenges in prosecuting cases of sexual violence during insurgency in Nigeria. While Parts six, seven and eight includes the way forward, recommendations together with the concluding remarks.

1.1 Historical Perspective of Boko Haram Operations in Nigeria

Boko Haram, a militant Islamist/jihadist group, has its ideology firmly rooted in the strict interpretation and application of Islamic law, known as *Salafism*.⁹ The group believes that Western education and values which the Nigerian state has embraced are incompatible with Islam and promotes secularism. Moreover, the recent manifestations of this militant Islamist group can be traced to a long-standing internal conflict within Islam over the proper interpretation and application of Islamic law.¹⁰ Boko Haram stated operation in Nigeria 2009 as a local peace militia and subsequently metamorphosed into a violent group in 2010 just as soon as its leaders were killed.¹¹ The

⁴ Beth Stephens, "Humanitarian Law and Gender Violence: An End to Centuries of Neglect" Hofstra Law and Policy Journal vol. 87, (1999), p 89, available at Scholarship. Law. stJohns.edu/chi/viewcontent.cgi?article=1032&content=jcr, accessed August 15, 2024.

⁵ Rome Statute of the International Criminal Court, ICC, 1998, available at https://en.m.wikipedia.org/wiki/Rome_Statute, accessed August 15, 2024.

⁶ Akpoghome, T and Awhefeada, U. "Challenges in Prosecuting Sexual Violence in Armed Conflict under the Nigerian law" Beijing law Review, vol. 11, No. 1, March 2020, p. 2.

⁷ Ibid

⁸ Nwaogu Dandy, "The Effects of Excluding Men from International and Regional Instruments of Protection of Sexual

Violence, BIU Law Journal (2021) vol. 5, p. 258

⁹ Matfess, Hilary. "Boko Haram: History and Context." *Oxford Research Encyclopedia of African History* (2017). Available at <https://oxfordre.com/africanhistory/display/10.1093/acrefore/9780190277734.001.0001/acrefore-9780190277734-e-119> accessed September 22, 2024. Salafism is a conservative form of Islam that advocates a strict adherence to the Quran and the Sunnah (the teachings and practices of the Prophet Muhammad). Salafis believe in returning to the "pure Islam" of the first three generations of Muslims and forbids religious innovations that deviate from this original understanding.

¹⁰ Ibid

¹¹ Adetunji Musibau, "Effects of Boko-Haram's Insurgency and Violence on Women in North-Eastern Nigeria" (2022) Vol. 4, No. 1 &2, *Veritas Journal of Humanities* at 29

group started its operation in Maiduguri, Borno state of Nigeria, by Mohammed Yusuf, a controversial preacher whose teachings advocated against Western education and government service, asserting that these were forbidden by the Quran. Originally known as Jamā'at Ahl al-Sunnah li-l-Da'awah wa al-Jihād (People Committed to the Propagation of the Prophet's Teachings and Jihad) the group became colloquially referred to as Boko Haram, which translates to "Westernization is Sacrilege" or "Western education is a sin," due to its teachings and lifestyle.¹²

Yusuf's vehement and confrontational critiques of sharia law's implementation led to conflicts with other religious groups and political communities. Despite its hostility to the government and repudiation of Western education, the group was generally peaceful until 2010. In July 2010, a violation of helmet regulations by a group of Boko Haram members escalated the already existing tensions between Boko Haram and the Nigerian government.¹³ Following the attacks on police stations in Bauchi and Yobe states by Boko Haram members, the Federal government launched a brutal counterinsurgency operation through the Joint Military Task Force. This operation resulted in the deaths of over 700 Boko Haram members and the capture of Mohammed Yusuf, the group's leader.¹⁴ Yusuf was subsequently assassinated by security

forces. Many believed that his death would mark the end of insurgency in Borno state. However, this proved to be short-lived, as Boko Haram re-emerged stronger under the leadership of Abubakar Shekau, the deceased leader's deputy.

Under Shekau's leadership, Boko Haram's tactics became increasingly aggressive, and its grievances expanded to include broader societal issues, directly confronting the Nigerian government and those who did not conform to its strict interpretation of Islamic law. Boko Haram's resurgence was accompanied by a series of violent attacks, including the Bauchi Prison break in 2010,¹⁵ the 2011 Christmas bombings in Jos and Maiduguri¹⁶, the January 2012 attack on government offices and police station.¹⁷ Despite the government's designation of Boko Haram as a terrorist organization and its concerted efforts to suppress the group's violence,¹⁸ Boko Haram persisted in its campaign of terror, shifting its focus to schools in order to discourage Western education in the Northeast.¹⁹ This led to a surge in the abduction of staff and students of Western educational institutions and government agencies, culminating in the infamous Chibok schoolgirl's abduction and subsequent incidents like the Damasak,²⁰ Dapchi, and Birnin Yauri school abductions.

¹² Atoi Ewere: Boko Haram Religious Fundamentalism and Western Education in North-East Nigeria. Available at http://1671639371_boko-haram-religious-fundamentalism-and-western-education-in-north-east-nigeria.pdf accessed September 22, 2024.

¹³ Yusuf's followers believed that helmets clashed with their proper religious headwear. Hence, preventing the pure practice of Islam.

¹⁴ Ibid 1

¹⁵ Scott Stearns: Gunmen Stage Massive Prison Break in Northern Nigeria. Available at <https://www.google.com/amp/s/www.voanews.com/amp/nigeria-says-732-inmates-freed-in-attack-on-prison--102422549/155762.html> accessed September 22, 2024.

¹⁶ Al Jazeera "Nigeria churches hit by blasts". Available at <https://www.aljazeera.com/news/2011/12/26/nigeria-churches-hit-by-blasts/> accessed September 22, 2024.

¹⁷ United States Institute of Peace: What Is Boko Haram?

¹⁸ Usman Talatu, Jonathan officially declares Boko Haram a terrorist Organisation. Premium Times Newspaper. June 4, 2013. Available at <https://www.premiumtimesng.com/news/137586-jonathan-officially-declares-boko-haram-a-terrorist-organisation.html?tztc> accessed September 22, 2024.

¹⁹ The February 2014 attack on male college students in Yobe state. Adam Nossiter : Islamist Militants Blamed for Deadly College Attack in Nigeria. New York Times. 25 February 2014. Available at <https://www.nytimes.com/2014/02/26/world/africa/dozens-killed-in-nigeria-school-assault-attributed-to-islamist-militant-group>. accessed September 22, 2024.

²⁰ About 400 women including children were abducted on November 24, 2014 from Damasak a town in Borno state by Boko Haram militants. Human Rights Watch, "Nigeria: A Year On, No Word on 300 Abducted Children." Available at

What began as a reformist religious community metamorphosed to one of the deadliest terrorist groups in the world.²¹ And a formidable threat to the country's security and stability and its influence is likely to persist for years to come if urgent and drastic steps are not taken by the Nigerian government to stop the operation of the group.

It must be noted that conflict related sexual violence has to do with any form of sexual violence, including rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage and other comparable acts committed against men, women and children which is directly or indirectly linked to an armed conflict.

Under international law, conflict related sexual violence is considered to be a war crime, crime against humanity, crime of torture. Such violence can also constitute an act of genocide.²²

1.2 Motive of Operation

While no single reason is sufficient to justify or explain Boko Haram's motives for its operation, a combination of religious, socio-economic, and political aspirations plays a significant role in this regard. At its onset, the sect fought for the implementation of Sharia law in Borno state and ultimately, aimed for the Islamization of Nigeria. They believed that Western education and values erode traditional Islamic beliefs and customs. Thus, they aimed to purge the country of these foreign influences and establish an Islamic state through every possible means including violent attacks which they believed was a proof of religious commitment.²³ They also drew inspiration from the numerous rewards that await them in paradise if they die (as martyrs) while fighting for Allah through their terrorist acts. The group considered anyone who combined Islamic principles

with Western cultures including Muslim leaders, as infidels who should be re-Islamized and failure to respond requires that they be put to death.²⁴

Although the election of pro-sharia politicians may have addressed some concerns related to religious governance, it did not fundamentally address the underlying socio-economic challenges and poverty faced by many communities in the northeastern region. These socio-economic grievances including unemployment, corruption, insecurity, economic deprivation and exacerbated inequality between the poor and the rich led to easy recruitment or radicalization and devout participation of Boko Haram members in terrorism. Members of the sect believe that the youths were being deprived of what rightly belongs to them by unjust and ineffective government, citing embezzlement, diversion and misappropriation of funds as key examples. They saw overthrowing the government and establishing an Islamic state as a means to install Sharia and purge the country of these challenges. Boko Haram leader Yusuf established community support systems an initiative that provided employment and essential services for his members which was neglected by the government.²⁵ Further incentivizing participation, the group offered abducted women and girls to fighters as rewards, mitigating the financial burden of marriage.

The group was further motivated by some political events culminating from their insistence on the implementation of Sharia law, to the shift in power to the South (emergence of Goodluck Jonathan as the president after the death of Mohammed Buhari Northern Muslim).

They believed that Jonathan's emergence as the president was a planned marginalization of the North despite the "political arrangement" to alternate the presidency between Southern Christians and Northern

<https://www.hrw.org/news/2016/03/29/nigeria-year-no-word-300-abducted-children> accessed September 27, 2024.

²¹ K. Pisa and T. Hume, "Boko Haram Overtakes ISIS as World's Deadliest Terror Group, Report Says," CNN, November 19, 2015.

²² A Conflict Related Sexual Violence {CRSV} Survivor's Journey, available at <https://www.un/en/exhibits/exhit/conflictrelated-sexual-related-sexual-violence-crsv-survivors-journey-15-year#:textthe%20term%20%E2%80%9CConflict%2Drelat>

ed%20sexual,that%20is%20directly%20or%20indirectly accessed July 21 2025.

²³ Institute for Security Studies. (2014). Is Kenya's response to terrorism making it worse? Available at <https://issafrica.org/about-us/press-releases/is-kenyas-response-to-terrorism-making-it-worse> accessed 22 October, 2024.

²⁴ Matfess, H. Boko Haram: History and Context. Oxford Research Encyclopedia of African History. Oxford University Press 2017.

²⁵ Ibid.

Muslims.²⁶ Their willingness /quest to challenge the legitimacy and administration of Jonathan's presidency drew and motivated some of its members to support insurgency against the federal government.

2. The Nature and Effects of Sexual Violence committed by Boko Haram.

Sexual violence encompasses any unwanted sexual contact, comment, or act committed without consent.²⁷ This reprehensible act is often employed as a weapon of war, a means of personal violation, and an expression of misogyny.²⁸ With Boko Haram's resurgence in 2010 came increased radicalization and violence, majorly characterized by the mass abduction and victimization of women and girls. Exploiting existing gender power imbalance in Northern Nigeria, Boko Haram insurgent's subjected abducted females to various forms of sexual violence, including gang rape, forced marriage, and sexual servitude. Refusal of sexual demands often resulted in punishment and torture; in some cases, victims were gang raped on camera and subsequently executed.²⁹ A major effect of the Boko Haram abuse on women is the psychological trauma they are subjected to as a result of rape and other forms of sexual violence. Since the women are sexually abused without their consent, they are stigmatized, leading most of the women to commit suicide. Another such effect includes health challenges, in this regard, the women suffer the risk of sexually transmitted diseases like HIV/AIDS and other such similar transmittable diseases.

2.1 Victim's Account and Experiences

Horrific accounts of victims/ survivors who escaped or were rescued by the Nigerian army have illuminated

the brutal nature of the sexual abuses perpetuated by the group.

The following are excerpts from the victims' testimonies detailing the level of sexual violence they endured by victims:

Dada was only 11 years old and had not yet begun menstruating when she was abducted by Boko Haram militants. She was presented to a group of fighters and a man she had never met. Following a brief prayer ceremony, she was informed that she was married to him and taken to his hut. "I started thinking, 'How can they marry me? I am too young,'" she recounted. Several months later, she became pregnant. "I never knew what pregnancy was, only that my belly was growing bigger."³⁰

Jummai attempted to escape with her sister and children, but the insurgents found them and raped Jummai in front of her children. Fearing the insurgents would return, the women fled to a crowded displacement camp. There, Jummai discovered she was pregnant with twins.³¹

At just 16, *Haleema* was kidnapped and forced into marriage. Upon her escape, she discovered that she was pregnant by her Boko Haram husband.³² Hauwa was 14 when the militants invaded their home in search of her older brother. Unable to find him, they demanded her father's hand Hauwa to be married. When her father declined their demand, the insurgents killed him along with Hauwa's stepmother and subsequently abducted Hauwa to Sambisa Forest. There, she was coerced into marrying an insurgent and subjected to repeated sexual assault by her husbands

²⁶ Moss Kelly "Nigerian terror: The Rise of Boko Haram" (2018). Available at <https://commons.lib.jmu.edu/cgi/viewcontent.cgi?article%3D1576%26context%3Dhonors201019&> accessed

²⁷ World Health Organization (2002) World Report on Violence and Health. Available at <https://www.who.int/publications/i/item/9241545615> accessed 22 October, 2024.

²⁸ CE Attah 'Boko Haram and sexual terrorism: The conspiracy of silence of the Nigerian antiterrorism laws' (2016) 16 African Human Rights Law Journal 385-406.

²⁹ Akukwe, O. Chibok Girls, Boko Haram and the Jihad of the Penis. Available at

<https://www.modernghana.com/news/555154/chibok-girls-boko-haram-and-jihad-of-the-penis.html> accessed 20 December 2024.

³⁰ Baker Aryn, Boko Haram: Nigeria struggles to absorb thousands more traumatized children now returning from brutal captivity. Time Magazine. 27 June 2017. Available at <https://time.com/boko-harams-other-victims/> accessed 20 December 2024.

³¹ Ibid

³² Elbagir Nima 'Boko Haram kidnap victim: Stigmatized for carrying captor's baby'. Available at <https://edition.cnn.com/2015/06/11/africa/boko-haram-pregnant-victim/index.html> accessed 20 December 2024.

and other men within the camps, enduring treatment akin to a common slave.³³

Aisha, a 19-year-old girl was abducted by Boko Haram militants while attending a friend's wedding. During her three months in captivity, she was subjected to repeated sexual violence, including gang rapes. She was forcibly trained in the use of firearms, bomb detonation, and village attacks.³⁴ Yazan Imra, then 18, was abducted from Gambarou, a border town between Nigeria and Cameroon, and taken to a terrorist hideout. During her two years of captivity, Imra was sexually abused and gave birth to a child who is now 16 months old.³⁵

Hamsatu, now 25, endured seven months of sexual slavery at the hands of Boko Haram. Upon reaching the Sambisa Forest, she was assigned to a small hut. Days later, a fighter, whose name she never learned, entered the hut, recited a prayer, and declared them married. The ensuing months were marked by consistent Hamsatu reports being raped almost daily, both by this fighter, whom he considered her "husband," and by a rotating group of other fighters who visited the hut each evening. These acts of violence often occurred in silence, with the men forcibly removing her headscarf and raping her on the hut floor. Approximately two months into her captivity, Hamsatu became pregnant.³⁶

Rosemary, abducted prior to the Chibok abduction, reported that she was subjected to sexual assault by over seven men on a daily basis for more than two months.³⁷

During periods of insurgency in Nigeria, rape has been effectively employed as a weapon of terror. Despite the existence of laws criminalizing rape, perpetrators often face no legal consequences. Boko Haram exemplifies this, where forced marriages were merely a pretext to legitimize repeated sexual assault. Marriages to Boko Haram insurgents were meaningless designation meant to give religious sanction to repeated rape. While the group's ideology ostensibly focuses on opposing the Nigerian government, evidence suggests that a pervasive desire for sex, violence, and terror significantly fueled their campaign.

The experiences of these victims and survivors strongly support the conclusion that Boko Haram insurgents utilized rape, forced marriage, and sexual servitude as troop incentives: to reward and motivate fighters, a unifying force: to foster a sense of unity among Boko Haram members, opportunistic exploitation: to gratify the desires of individual fighters, ideological perpetuation: to indoctrinate and control its victims and as an instrument of terror: to inflict psychological and physical trauma on the population.³⁸

3. Legal Framework on Sexual Violence in Nigeria.

Sexual violence has become a disturbingly prevalent feature of insurgencies in Nigeria. While the atrocities committed by Boko Haram are well documented, and numerous domestic and international legal frameworks exist to protect women from sexual violence, the lack of prosecutions of Boko Haram

³³ AE Petri, "These Girls Escaped Boko Haram. Now They're Sharing Their Stories." Available at <https://www.nationalgeographic.com/photography/article/boko-haram-survivors-visit-dc> accessed 20 December 2024.

³⁴ Amnesty International : Chibok two years on: Remembering all Boko Haram's victims. Available at <https://www.amnesty.org/en/latest/news/2016/04/chibok-two-years-on-remembering-all-boko-harams-victims/> accessed 20 December 2024

³⁵ Kindzeka, M. Sex slaves for Boko Haram. Available at <https://www.google.com/amp/s/amp.dw.com/en/cameroon-sex-slaves-for-boko-haram/> accessed 20 December 2024.

³⁶ Kevin Seiff "They were freed from Boko Haram's rape camps. But their nightmare isn't over". Available at <https://www.smh.com.au/world/they-were-freed-from-boko-harams-rape-camps-but-their-nightmare-isnt-over-20160404> accessed December 20, 2024.

³⁷ Ibid 19.

³⁸ Nossiter, A. Boko Haram militants raped hundreds of female captives in Nigeria' The New York Times 18 May 2015. Available at <https://www.nytimes.com/2015/05/19/world/africa/boko-haram-militants-raped-hundreds-of-female-captives-in-nigeria.html&ved=> accessed 20 December 2024.

members for such heinous crimes is a concern to many including the authors of this paper.

Although these legislations do not explicitly criminalize sexual violence during insurgencies, the rape provisions in these legislations could present avenues for prosecuting members of Boko Haram for sexual violence. This analysis outlines key elements of legislations that can be utilized to bring perpetrators of sexual violence during insurgency to justice.

3.1 Constitution of the Federal Republic of Nigeria 1999 (as amended 2011)

Chapter IV of the Nigerian constitution guarantees the fundamental human rights of the citizens. Section 34 of the Constitution specifically provides that:

- 1) Every individual is entitled to respect for the dignity of his person, and accordingly-
 - a) No person shall be subject to torture or to inhuman or degrading treatment.
 - b) No person shall be held in slavery or servitude; and
 - c) No person shall be required to perform forced or compulsory labor.

By subjecting their abductees to various degrees of sexual abuse, forced labor and sexual slavery, Boko Haram militants violated the fundamental human rights of these women. Hence, this provision can be relied on in prosecuting members of the sect who have been apprehended for sexual violence.

3.2 Violence against Persons Prohibition Act, 2015 (VAPPA)

This Act seeks to prohibit all forms of violence against persons and to provide maximum protection and effective remedies for victims. Section 1 of the VAPP Act provides that a person commits the offence of rape if:

- i) He or she intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else;
- ii) The other person does not consent to the penetration; or
- iii) The consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or

addictive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.

Section 2(1) of the Act further provides that where the offender is found culpable under section 1, he would be sentenced to life imprisonment. Where the offender is less than 14 years, the punishment is a maximum term of 14 years imprisonment.³⁹ In cases where the offender is above 14 years, the Act provides for a minimum of 12 years imprisonment and for gang rape, the offenders are liable jointly to a minimum term of 20 years without an option of fine.⁴⁰ The Act also recommends the award of appropriate compensation to the victim by the court and mandates that a register of convicted sexual offenders be maintained and accessible to the public.⁴¹

3.3 Criminal Code Act.

The Criminal Code,⁴² The Act is applicable to the southern states in Nigeria. By virtue of Section 357 of the Code, a person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false act, or, in case of a married woman, by impersonating her husband is guilty of an offence called rape. Section 358 provides the punishment for rape which is life imprisonment.

The Criminal Code also criminalizes indecent assault of females, abduction including the abduction of females under sixteen years.⁴³ By virtue of section 63, the code also creates the offence of statutory rape it provides that; it is immaterial that the offender/perpetrator believed that the girl is 16 years or above the age of 16 years or that carnal knowledge of the girl took place with the girl's consent or at her suggestion. Also, section 225 prohibits the abduction of girls under 18 with intent to have carnal knowledge.

3.4 Penal Code

The Penal Code of 1960 applies to the Northern states of the federation. Section 282(1) the Penal Code provides for the offence of rape. It states that: A man is said to commit rape, who, save in the case referred to in subsection (2), has sexual intercourse with a woman in any of the following circumstances:

³⁹ Section 2(1)(a) VAPPA 2015.

⁴⁰ Section 2(1)(c) VAPPA 2015.

⁴¹ Section 4 VAPPA 2015.

⁴² CAP C38 LFN 2010

⁴³ Section 360-362 Crime code Act

- a) Against her will;
- b) Without her consent;
- c) With her consent, when her consent has been obtained by putting her in fear of death or of hurt;
- d) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is the man to whom she is or believes herself to be lawfully married;
- e) With or without her consent when she is under fourteen years of age or of unsound mind.

By virtue of Section 283 of the Penal code whoever commits rape shall upon conviction be sentenced to life imprisonment or for any less term and shall also be liable to a fine. Under section 283 of the code, rape is still committed even where the girl consents if she is below the age of 14 years or of unsound mind. Furthermore, any consent given by a girl below 16 to her guardian, teacher or any person entrusted with her care or education is deemed invalid.

However, section 282(2) introduces a marital exemption, stating that sexual intercourse between a husband and wife is not considered rape if the wife has reached puberty. This provision raises concerns, as it could potentially be exploited to justify forced marriages. True consent in marriage necessitates the voluntary and willing participation of both parties.

3.5 Child Rights Act.

The Child's Rights Act (2003) unequivocally prohibits all forms of child sexual abuse. The Act defines a child as any person under the age of eighteen (18). Section 31 provides that no person shall have sexual intercourse with a child and a person who has sexual intercourse with a child commits an offence of rape and is liable on conviction to imprisonment for life. According to subsection 3, where a person is charged with an offence under this section, it does not matter that, (a) the offender believed the person to be of or above the age of 18 years; or (b) the sexual intercourse was with the consent of the child. A child cannot give consent under the law.

Section 32 further provides that a person who sexually abuses or sexually exploits a child in any other manner not specifically mentioned in that part of the CRA commits an offence and is liable on conviction to imprisonment for a term of 14 years.

In this light, the authors argue that instead of prioritizing amnesty and de-radicalization programs for "repentant" Boko Haram members, justice should be dispensed to survivors by holding perpetrators accountable for their crimes, particularly those involving sexual violence, which are clear violations of several Nigerian legislations. The voices and opinions of victims must be central to any considerations regarding justice, reconciliation and reintegration. Granting amnesty signals permissiveness for sexual violence and even if granted, should be strictly limited to participation in armed conflict and should not extend to the grave crimes of sexual violence.

4. Challenges in prosecuting cases of sexual violence during insurgency in Nigeria.

The establishment of the International Criminal Court (ICC) has in no small way enhanced the opportunity of prosecuting perpetrators of the crime of sexual violence within the international community. Similarly, the adoption of Resolution 1325 in 2000 by the United Nations Security Council also further created awareness on the prosecution and punishment of the crime of sexual violence.⁴⁴ However, it must be noted that despite the chances created by the ICC and adoption of other important resolutions by the UNSC just a very few perpetrators have been tried and punished by international courts and tribunals for crimes of sexual violence either as war crime, crime against humanity, or genocide, sadly, amongst the few that have been tried only one or two were found guilty and convicted.⁴⁵ Part of the challenge includes the unavailability of credible evidence against perpetrators. Prosecuting cases of sexual violence committed during insurgency in Nigeria presents significant challenges. While the national courts have primary jurisdiction over crimes committed within Nigerian territory, effectively bringing perpetrators to justice remains elusive because of the following:

4.1 Weaknesses of the present Criminal and Penal Codes

It is impossible at the moment for Nigeria to prosecute sexual violence offences committed during armed conflict without the deliberate reform of the above laws. Presently, there is no available national legislation that criminalizes sexual violence during armed conflict. It must be clear that both the criminal code and the penal code which are applicable in the

⁴⁴ Theresa Akpoghome, "Challenges of Prosecuting Sexual Violence in Armed

Conflict Under Nigerian Law" (2020), Vol. 11 No. 1, *Beijing Law Review at 5*

⁴⁵ *ibid*

Southern and Northern states of Nigeria are peacetime legislations. Thus, the laws need to be amended to reflect wartime situations.

4.2 Lack of Specific Legal Framework:

While general legislation addresses sexual violence (e.g., rape), there is a notable absence of specific legal provisions that explicitly define and criminalize sexual violence in the context of insurgency. This lack of clarity creates legal ambiguities and hinders effective prosecution. For example, Section 1 of the Violence against Persons prohibition Act (VAPPA) which was enacted in 2005 clearly gives a wider definition of the rape and includes male and female, however, the application of the law is only restricted to the Federal Capital Territory (FCT) Abuja, hence the urgent need for reform.⁴⁶

4.3 Difficulties in Apprehending Perpetrators:

Many victims of sexual violence committed by the Boko Haram insurgent group are occasionally rescued by the Nigerian Armed Forces, or sometimes the victims themselves may escape from Boko Haram camps, making it extremely difficult to identify, apprehend, and prosecute the primary perpetrators of the sexual violence. The decentralized and fluid nature (that is the lack of a fixed structure, clear leadership, or permanent locations) of insurgent groups further complicates efforts to track down and bring perpetrators to justice.

4.4 Lack of Domestication of International Treaties on Sexual Violence.

Presently, it is difficult for the Nigerian nation state to prosecute the crime of sexual violence in times of armed conflict because of the lack of domestication of international treaties on the subject matter under review.⁴⁷ Section 12 of the 1999 Constitution of Nigeria provides that for any international treaty which the government enters into to become law and enforceable by the courts such treaty has to deliberately go through the process of domestication by the National Assembly. Sadly, Nigeria has similarly ratified quite a number of treaties in this regard, but it is yet to domesticate any of them, treaties like the Additional Protocol to the Geneva

Convention, the Rome Statute, Convention on the Elimination of All forms of Discrimination Against women (CEDAW), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of women in Africa. (The Maputo Protocol). It is important to note that until the Rome Statute and the other important treaties are domesticated, the courts in Nigeria would lack the capacity to prosecute the crimes of sexual violence committed during armed conflict.⁴⁸

4.5 Challenges in Collecting and Preserving Evidence:

Collecting and preserving evidence related to sexual violence in conflict-affected areas is usually difficult. Access to medical facilities and forensic experts is often limited, hindering the collection of crucial medical evidence.

4.6 Victim Reluctance and Stockholm syndrome

Some victims may be reluctant to report the crimes due to fear of reprisal, social stigma, or feelings of shame and guilt. In some other cases, victims may develop an emotional bond with their captors during captivity, a phenomenon known as Stockholm syndrome, making them unwilling to cooperate with authorities or testify against their abusers. In Nigeria, there are instances where perpetrators take their victims as 'bush Wives' and then the victims later refuse to return home after they have been set free. It has also been reported of cases where freed victims willingly returned back to their abductors immediately after they gained freedom.⁴⁹ Thus, as a result of the emotional attachment of the victims to their abductors it makes it difficult for victims to come forward to testify and this is a major problem of prosecution of crimes of sexual violence committed by Boko Haram in Nigeria.⁵⁰

4.7 Limited Access to Justice

Victims often face barriers in accessing justice, these barriers include limited access to legal aid, inadequate support services. Most times, victims may live in very remote villages where it becomes difficult to physically access the venue of the legal system. In some cases, even when victims courageously walk into the police station to report a case of sexual

⁴⁶ Theresa Akpoghome, "Challenges in Prosecuting Sexual Violence in Armed Conflict under the Nigerian Law", (2020), Vol. 11 No. 1, *Beijing Law Review at 5*

⁴⁷ *ibid*

⁴⁸ *Ibid at 6*

⁴⁹ *Ibid at 7*

⁵⁰ *ibid*

violence, the response they get in return is often discouraging. It is either that the police officer is not on the ground to attend to her, or accuses her of indecent dressing as reason for being sexually abused. On the other hand, the police could even have gender bias on issues of sexual violence. At other times, it is possible to have the police station completely destroyed by the fighting forces making it entirely herculean for the police to operate effectively.⁵¹ There is also the issue of lack of trust in the justice system. Additionally, corruption and impunity within the justice system can further discourage victims from seeking justice thus, hindering effective investigation and prosecution of the crime of sexual violence in the country.

4.8 Lack of Special Courts for Sexual Violence Cases in Conflict Situations

In order to effectively investigate and prosecute the crime of sexual violence in Nigeria, there is a need for urgent establishment of specialized courts and other similar agencies within the country with trained personnel having capacity to investigate and prosecute offences of this nature. This becomes necessary owing to the fact that most prosecutors and judges in the ordinary court room do not have special knowledge relating to sexual violence, and also the fact that conflict related sexual offences are international crimes, it becomes expedient for judges and other court staff be properly equipped with international criminal law procedures, adequate knowledge of the meaning and elements of the crime in question.⁵² The authors are of the view that owing to the special nature of the crime of sexual violence, it ought not to be tried generally with other types of crimes in the regular courtroom in order to protect the privacy and image of the victim, thereby securing their confidence and reputation. Another inherent benefit of this kind of special court is that it will help minimize issues of stigmatization for victims. Most time as a result of public knowledge of sexual violence against a victim, she is often treated as an outcast and subsequently rejected by spouses and family members. This in turn causes the victims sometimes to inflict injuries on themselves as a way to express trauma and anger. It is important to note that shame, guilt and the lack of support for victims of sexual violence greatly impact on their image and self-worth. In the same vein, stigmatization comes with other serious consequences like anxiety, shock, depression, post-traumatic, memory loss, and sexual dysfunction.⁵³ Another major

effect of stigmatization on the victim is the fact that a girl who's has been sexually abused may find difficulty in getting a life partner, and those already married may be divorced by their husbands.⁵⁴

5. The way forward

To effectively surmount the already identified challenges of the prosecution of sexual violence a lot of efforts and proactive steps need to be urgently undertaken by both the Nigerian government, the legislature and other important stakeholders. The under listed measures by the authors could be helpful to the government of Nigeria if carefully adopted.

5.1 Strengthening Legal Frameworks and Institutions:

While prosecuting Boko Haram members for crimes such as terrorism, kidnapping, and murder is essential, it's equally vital to ensure that sexual violence is not overlooked. Strengthening legal frameworks and institutions by incorporating specific offenses related to sexual violence during insurgency and rigorously enforcing these provisions, is paramount.

The legal definition of sexual violence should be comprehensive, encompassing a wide range of acts beyond just rape, including forced marriage, sexual slavery, forced pregnancy, and other forms of sexual abuse. Such legislation should also ensure the prosecution of perpetrators of sexual violence regardless of their nationality or where the crime occurred. In addition to strengthening laws and institutions, access to justice for survivors must be guaranteed. The government should take up the costs of litigation in cases of sexual violence, removing the financial burden that often prevents survivors from seeking redress. Furthermore, courts must prioritize these cases and avoid unnecessary delays, Unending adjournments serve only to frustrate victims and undermine the pursuit of justice.

5.2 Advocacy and Awareness

Civil society organizations, human rights groups, and international actors must continue to advocate for greater political will to address sexual violence during insurgencies. Raising awareness about the issue and its consequences can help to put pressure on governments to act.

5.3 Enhancing evidence collection and preservation

⁵¹ Ibid at 7

⁵² Ibid

⁵³ Ibid at 8

⁵⁴ ibid

It is vital that strict protocols for maintaining the chain of custody of evidence are followed. Investigators and prosecutors should be trained in trauma-free interviewing techniques to gather testimony without re-traumatizing survivors. Additionally, organizations that document human rights abuses, including sexual violence, should be supported as this documentation can be used for future prosecutions.

5.4 Addressing societal stigma and victim-blaming

It is unconscionable that most women who escaped or were rescued from Boko Haram's camps, particularly those bearing children fathered by Boko Haram members are often blamed and stigmatized. These women are not perpetrators; they are victims in dire need of compassion, comprehensive support, counseling, and protection. This support includes long-term psychological support (therapy and counseling), community sensitization, medical care, educational support, vocational training and other forms of economic empowerment. This enables them to heal, empowers them to testify against their abusers and aids in the pursuit of justice.

5.5 Promoting Accountability for Perpetrators

Sexual violence in conflict times must be treated as a grave and distinct crime. Therefore, Justice demands that perpetrators of sexual violence be held accountable. By specifically holding Boko Haram members responsible for these crimes, a precedent is established that such acts are never justifiable regardless of when it is committed, and will be punished, even after hostilities cease. In addition, individuals and entities who sponsor or are responsible for these terrorists' acts should be identified, prosecuted and punished. Furthermore, where domestic mechanism seems insufficient, the possibility of referring these cases to the International Criminal Court /ECOWAS Court of Justice as a human rights court should be explored.

5.6 Establishment of Specialized Courts across the states in Nigeria

It is important to have in place specialized courts in all the thirty-six states in the country including the Federal Capital Territory, Abuja. This will ensure the effective handling of sexual violence cases, prompt prosecution of perpetrators as well as timely delivery of justice to the victims. The authors recommend that a special court building different from the already existing court buildings be raised in all states, with judges and other court staff with training and special

knowledge on sexual violence cases. The judges must be persons who are advocates for women and gender emancipation with deep passion for justice and equity. The court procedure should be such that the time line for giving of judgment in sexual violence cases comes within a very short period of time with adequate punishment of either life imprisonment or the castration of the perpetrator, as well as having the names of such perpetrators published in all national newspapers within the country to shame and blacklist them, this will serve as serious deterrent to prospective offenders. On the other hand, there should be adequate reparation and compensation for the victims by the court. The authors further recommends that the Nigerian government both at federal and state levels should be financially committed to provide for modern and digital facilities as well as ensure that the judges of the court are very well paid and victims promptly and adequately compensated.

6. Conclusion

Since the abduction of the Chibok school girls in 2014, Nigeria has experienced an increased rate of sexual violence mainly by insurgent armed groups, committed mainly the Boko Haram sect. Sadly, for all the atrocities by the armed group, there is no record of a single prosecution or accountability of any member of the group for the acts of sexual violence. However, some of the reasons for the lack of prosecution of the Boko Haram group are already pointed out in this paper as part of challenges of prosecution, including but not limited to the absence of domestication of ratified treaties by the Nigerian government, inadequacy of the extant laws, lack of specialized courts to attend to sexual violence cases etc. In addressing the devastating aftermath of Boko Haram's atrocities, particularly the systematic sexual violence, and preventing future occurrences there is need for a comprehensive and sustained strategy. This necessitates prioritizing justice for survivors, ensuring that the voices of the victims are central to all efforts toward healing and Reconciliation. Justice must be seen to be effectively served, such victims of Boko Haram exploitation, particularly women and girls subjected to sexual abuse. The Nigerian government must sincerely show commitment and willingness to genuinely investigate, prosecute, firmly, and hold perpetrators accountable for their actions.

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Interrogating the Crisis of Prison Congestion in Nigeria

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Abstract. This paper explores the persistent issue of prison overcrowding in Nigeria. While incarceration is intended globally as a final option for penalizing offenders, in the Nigerian context, it is frequently applied as the initial course of action. The change in nomenclature from "Prisons" to "Correctional Centers" has not significantly altered their punitive orientation, as many facilities continue to prioritize punishment over genuine rehabilitation. As of the fourth quarter of 2024, nearly 70% of inmates in Nigerian correctional facilities are still awaiting trial. This high percentage reflects systemic inefficiencies, largely stemming from the inaction and negligence of key actors in the criminal justice system, particularly government institutions. Each component of the justice system shares in the responsibility. The police often detain suspects without conducting prompt or adequate investigations. Delays by prosecuting bodies, including the Ministries of Justice, in filing charges, issuing legal opinions, and pursuing prosecutions, further exacerbate the problem. Additionally, poor handling of case files contributes to the prolonged detention of suspects. Within the judiciary, challenges such as excessive case backlogs, repeated adjournments, and the lack of enforcement of bail or provisions for speedy trials under the Administration of Criminal Justice Act (ACJA) 2015 are also significant contributors. Furthermore, the Ministry of Interior and the Nigerian Correctional Service are yet to fully implement non-custodial measures or enforce strategic actions aimed at reducing overcrowding. Provisions outlined in Section 1.2 (4–12) of the Nigerian Correctional Service Act of 2019 remain largely unimplemented. This theoretical study seeks to re-engage and stimulate the commitment of stakeholders towards addressing the ongoing failures within Nigeria's correctional and judicial systems.

Keywords: Congestion, Correctional, Crises, Inmates, Prison, Reform.

1. Introduction

The problem of overcrowded correctional facilities in Nigeria is a complex one, arising from a mix of systemic inefficiencies, legal inadequacies, socio-economic limitations, and poor infrastructure. Many of Nigeria's prisons operate far beyond their intended capacities, leading to unsafe living conditions, heightened incidences of violence, increased health hazards, and violations of the rights of inmates.

The Nigerian Constitution, under Section 36 of the 1999 edition, guarantees every individual the right to a fair hearing. This includes timely and impartial adjudication by legally established courts or tribunals. A complete and fair trial is integral to justice delivery. However, despite this constitutional safeguard, delays in processing court cases remain a major issue. By the first quarter of 2024, available records indicated that out of approximately 78,000 individuals in custody, over 55,000 were still awaiting trial. This represents nearly 70% of the incarcerated population.

Furthermore, Nigerian custodial institutions fall short of the minimum global standards for prison conditions as outlined by the United Nations. These standards emphasize adequate facilities and the humane treatment of prisoners. To align Nigeria's correctional system with the UN's Standard Minimum Rules for the Treatment of Prisoners—commonly known as the Nelson Mandela Rules—there is an urgent need to prioritize structural reforms, better resource allocation, and human rights-centered policies.

Let me know if you'd like this transformed into a full research background, introduction, or policy brief.

There is a pressing need for the comprehensive and efficient enforcement of the Nigerian Correctional

Service Act of 2019 — this includes the proper application of its key provisions.

a) Promoting and efficiently applying alternatives to imprisonment such as community-based service, probation, parole, deferred sentencing, and other non-custodial measures.

b) Establishing frameworks for faster trial processes, enhancing case handling systems, and guaranteeing access to legal counsel, particularly through strengthened legal aid services for all detainees.

In countries such as the United Kingdom and the United States, court proceedings often operate on an almost continuous, round-the-clock basis. In the U.S. in particular, aspects of correctional management are contracted out, allowing private prison operators to work alongside government bodies in handling logistics and providing inmate rehabilitation and training programs.

By contrast, Nigeria has a total of 240 correctional facilities with a combined holding capacity of approximately 50,000 individuals. This capacity is already overstretched, presenting significant housing challenges. Even more concerning is the fact that a large number of inmates have remained in custody for over 15 years without the conclusion of their trials. In 2021, the Controller of Corrections in Lagos disclosed that many prisoners at the Kirikiri Maximum Security facility had been confined there for over ten years—a major contributor to the overcrowding crisis.

Such circumstances contradict the intent of the Nigerian Correctional Service Act of 2019, which seeks to reposition correctional institutions into centres focused on reform and rehabilitation. The law rebranded the former Nigerian Prisons Service as the Nigerian Correctional Service (NCOS), assigning it two core responsibilities—

The custodial unit is responsible for overseeing individuals in detention, with a focus on humane care, correctional reform, and their eventual reintegration into society.

The non-custodial division manages alternatives to incarceration, including options like probation, parole, deferred sentencing, restorative justice practices, and community-based sanctions.

The role of the Nigerian Police in exacerbating the issue of prison congestion is significant. Unlawful arrests, improper charge filings, and opposition to bail—particularly in cases where bail is constitutionally guaranteed—are common practices. Often, suspects are charged with vague or "holding" offenses at magistrate courts without diligent follow-

up. In many instances, the delay in case progress is linked to the absence of financial incentives.

Detainees charged under these holding provisions frequently remain in custody for extended periods due to a lack of effective communication and monitoring systems. Although the Administration of Criminal Justice Act (ACJA) allows magistrates to remand suspects on holding charges for a maximum of four weeks, this is frequently abused. In practice, many suspects are not brought to court as scheduled, often due to excuses from correctional officers citing insufficient funds, vehicle shortages, or other logistical issues.

Had the police fulfilled their legal obligations properly, a significant number of individuals could have been granted bail and allowed to attend court sessions from their homes. This would reduce the burden on correctional facilities and allow for greater use of non-custodial sentencing options. Additionally, magistrates who impose unnecessarily strict bail conditions hinder the smooth operation of the justice system. Minor infractions such as petty theft, public disturbance, and assault should ordinarily qualify for bail under flexible conditions to ensure the justice process functions efficiently.

2. Prison Congestion in Nigeria as a Social Problem

According to Agomoh (2010), a significant portion of individuals held in Nigerian correctional facilities comprises males and females still undergoing trial—commonly referred to as Awaiting Trial Males (ATM) and Awaiting Trial Females (ATF). This group represents the largest population within custodial centers.

In 2007, Amnesty International conducted assessments in several Nigerian prisons, including those in Abuja, Enugu, Lagos, and Kano. Their findings highlighted severe shortcomings within the country's criminal justice and prison systems. The report revealed that these institutions fail to align with the core objectives of correctional services.

Rather than serving as centers for meaningful reform, many prisons in Nigeria lack the structure and programs necessary for the rehabilitation and reintegration of inmates. Correctional institutions are ideally meant to provide offenders with the opportunity to learn productive skills, rebuild character, and return to society as responsible, law-abiding individuals.

This aligns with the stipulations in CAP 366 of the Laws of the Federation 1990, which outlines that correctional centers are responsible for housing convicted individuals, guiding their rehabilitation, and supporting their reintegration into the community. Additional responsibilities include:

- To take into lawful custody all those certified to be so kept by court of competent jurisdiction.
- To produce inmates in court as and when due if they are on remand.
- To identify the root causes of inmates' anti-social behaviours
- To put in place the focal infrastructural development, inmates training and staff training and retraining¹¹.

Most of these responsibilities and intended outcomes have largely gone unfulfilled. One of the most critical issues facing the correctional system today is severe overcrowding. This arises when the population of incarcerated individuals surpasses the facility's capacity, leading to inhumane living conditions and causing psychological, emotional, and mental health challenges for inmates. Such conditions are symptoms of deep-rooted systemic failures involving all key actors within the justice, judicial, and correctional framework.

Correctional institutions, originally created to reform, rehabilitate, and reintegrate offenders back into society, are no longer fulfilling their intended mandate. One of the major setbacks is the persistent overcrowding in these facilities, which has become a growing societal concern. This condition not only strains correctional infrastructure but also diverts government resources from vital sectors like education, healthcare, agriculture, and infrastructure development.

As noted by Bukie (2024), when over 70% of incarcerated individuals are pre-trial detainees, it points to deep inefficiencies within the criminal justice system. Several contributing factors to this delay include the shortage of courts and inadequate judicial personnel. With increasing urbanization and population growth leading to higher crime rates, there is an urgent need to expand the judicial infrastructure accordingly.

Amnesty International has observed that a significant cause of prison overcrowding is the prolonged detention of suspects awaiting trial. These delays are often due to slow or incomplete investigations. Legal procedures are sometimes overly technical, contradictory, or poorly coordinated. Compounding

the problem is the general public's reluctance to cooperate with law enforcement agencies—such as the police, Civil Defence, EFCC, or ICPC—stemming from a lack of trust and previous negative encounters.

Another contributing factor is the frequent transfer of magistrates. When a new magistrate assumes office, the lack of case continuity can lead to trials being restarted from scratch. This procedural disruption adds further delays. In Nigeria, minor offenses such as theft of trivial items (e.g., poultry, a yam tuber) still result in imprisonment, when non-custodial sentences would be more appropriate for managing overcrowding.

It is important to clarify that correctional centers are primarily intended for convicted persons undergoing rehabilitation—not for housing the large numbers of detainees still awaiting trial. According to a 2010 investigation by Amnesty International, prisons in Nigeria have become holding grounds for various categories of individuals, including petty debtors, persons with mental health challenges, pregnant women, and those facing minor or questionable charges.

Many of Nigeria's correctional facilities are outdated, with some being over 100 years old and established during the colonial era. Unfortunately, the government has made minimal progress in constructing new facilities or renovating existing ones. When one considers the rise in contemporary crimes such as terrorism, child trafficking, kidnapping, and bombings, the inadequacy of the current prison infrastructure becomes more evident.

In its 2008 report, Amnesty International identified overcrowding as a critical issue, severely affecting the mental and physical well-being of detainees. Many inmates are forced to sleep on bare floors, face malnutrition, endure unsanitary conditions, and suffer from health issues such as skin infections, tuberculosis, and chronic diseases like diabetes.

In 2024, the former Comptroller-General of the Nigerian Correctional Service, Mr. Zakari Ohinoyi Ibrahim, expressed serious concern over the implications of overcrowding, identifying it as a significant obstacle to reforming the prison system. Echoing the findings of earlier scholars, he noted that over 70% of inmates remain in custody awaiting trial. He called for increased financial investment in the correctional sector and expressed optimism that improvements would follow once policymakers understood the broader security risks posed by chronic underfunding.

Speaking at a workshop organized by the Prisoners Rehabilitation and Welfare Action (PRAWA), under its Human Rights Training Integration Project, he once again highlighted the persistent issue of Nigeria's high pre-trial detention figures. He revealed that out of the over 70,000 individuals currently held in correctional facilities, more than 50,000 had not yet been convicted. He emphasized that inmates, despite being deprived of certain freedoms due to legal infractions, are still entitled to fundamental rights protected by law—even while in custody.

On the same subject, Mrs. Catherine Atoki, Chairperson of the African Commission on Human and Peoples' Rights, stressed the importance of ensuring humane conditions within Nigeria's correctional centers. She argued that inmates should be housed in dignified environments and not subjected to degrading or inhumane conditions.

International and regional legal frameworks widely recognize and uphold the rights of prisoners. The general consensus is that correctional authorities must remain accountable and place a strong emphasis on the welfare of those in custody.

3. Factors that contribute to Prison Congestion in Nigeria.

(a) One of the major issues hindering the smooth handling of criminal cases is the lack of effective communication between correctional staff and prosecuting authorities. Ideally, there should be seamless coordination between prosecutors and correctional facility personnel. Once a defendant is remanded in custody, it becomes the responsibility of custodial staff to maintain communication with the prosecuting counsel regarding court adjournment dates and relevant updates.

In cases where a prosecutor is reassigned to another location, it is essential that a proper handover of case files and progress notes is carried out. However, this procedure is often neglected. As a result, when a new prosecutor assumes the role, they face delays in understanding the status of ongoing cases due to the absence of clear documentation or briefings, which prolongs pre-trial detention unnecessarily.

(b) There is noticeable indifference among some judicial officers, especially in handling older cases. Many tend to prioritize newly filed matters while neglecting unresolved ones—particularly those abandoned due to the reassignment of prosecuting counsel. The judiciary also faces structural limitations: there is a shortage of magistrates and insufficient courtrooms to meet growing demands. Some magistrates travel considerable distances to get to their

assigned courts. A notable example occurred in 2023 when a video surfaced showing a magistrate lamenting a transportation issue after the commercial vehicle meant to convey her to court broke down.

(c). Corrupting Investigating Police Officers (IPO) and Prosecuting Police Officers.

Although the police officially maintain that bail is offered at no cost, in practice, securing bail often involves unofficial financial demands at police stations. Cases that proceed to court are frequently those in which no informal arrangements have been made with law enforcement. Additionally, prosecutors sometimes delay proceedings unnecessarily, especially when the accused persons lack the financial means to influence the process.

(d). A key limitation within the criminal justice system is the inadequate adoption of digital technologies. The well-known phrase “justice delayed is justice denied” underscores the need for modern tools that can accelerate legal processes. Incorporating communication technologies—such as creating coordinated digital platforms (e.g., WhatsApp groups)—could significantly enhance collaboration among essential justice sector actors, including magistrates, prosecutors, investigating officers, and custodial officials. Such digital integration would improve case tracking and ensure faster case resolutions. Establishing a centralized and accessible digital database for case records and related information would further promote transparency and efficiency in the system.

(e) Prolonged pre-trial detention remains a major issue, with many individuals held behind bars for extended periods—sometimes months or years—without receiving a formal judgment. Contributing to this situation are systemic inefficiencies within the judiciary, including overwhelming case backlogs and limited court infrastructure. Additionally, bail processes tend to be restrictive, either due to financial barriers or complex legal procedures that make release difficult for many detainees.

(f) High Crime Rates and Recidivism – Nigeria continues to grapple with recurring criminal activities including robbery, abduction, corruption, and electoral-related offenses. The country also experiences a high rate of reoffending, which contributes to repeated incarcerations and adds further pressure on correctional facilities.

(g) Weak and outdated legal provisions, along with insufficient policy development, limit the effectiveness of the criminal justice system.

Compounding the issue are enforcement challenges such as widespread corruption and a lack of institutional accountability, which significantly obstruct meaningful reform.

(h) **Infrastructural Deficiencies** – Numerous correctional centers suffer from inadequate funding and neglect. The excessive number of inmates' places immense pressure on limited resources, resulting in degrading and unsafe living environments.

(i) **Economic hardship, joblessness, and limited educational opportunities** are key drivers that push individuals toward unlawful behavior. In addition, societal exclusion and extremist movements, such as Boko Haram, further escalate criminal activity across affected regions.

(J). **Nigeria factor-** Nigeria's criminal justice structure is supported by three key institutions: the police, the judiciary, and the correctional system. Among them, the police occupy a foundational position, significantly influencing the operations of the courts and custodial centers. Acting as the initial point of contact in the justice process, their decisions often shape the flow of cases into the legal and correctional systems. However, this critical role has been misused over time, with law enforcement officers increasingly assuming judicial functions—deciding arbitrarily who faces prosecution and who is released—thereby obstructing due legal processes.

3.1 Impacts of Prison Congestion

- (a) **Human Rights violations-** overcrowding leads to poor sanitation, inadequate healthcare, and violence
- (b) **Public Safety Concerns-** High recidivism and Unrehabilitated offenders threaten community safety
- (c) **Judicial and Administrative Strain -** Overburdened prisons reflect weakness in the Criminal Justice System
- (d) **Economic Costs** – Maintaining overcrowded prisons is costly for the government and taxpayers.

3.2 Legal and Judicial Reforms

(a) **Legal Reforms** – Strategies aimed at reducing overcrowding in correctional facilities have included reforms to the bail system, initiatives to accelerate trial processes, and revisions to existing bail-related legislation. At various times, the Nigerian government has also granted releases to certain inmates based on medical conditions or compassionate considerations.

(b) **Alternative Dispute Resolution** – Encouraging the use of non-custodial measures such as community

supervision, conditional release, and probation as alternatives to incarceration to ease pressure on correctional facilities.

(c) **Judicial Reforms-** Enhancing the handling of legal proceedings, recruiting more judges and court staff, and adopting digital technologies to streamline courtroom operations.

(d) **Infrastructural improvements-** Constructing additional correctional centers and modernizing current infrastructures, alongside introducing policy changes aimed at enhancing living standards within custodial environments.

(e) **International and Civil Society Engagement-** Partnering with global bodies such as the United Nations and various NGOs to advance correctional system improvements and uphold inmates' fundamental rights.

(f) **Sentencing Reforms-** Encourage the use of alternatives to imprisonment for lesser crimes by reforming legal frameworks to broaden the use of community service, supervised release, and diversion programs.

3.3 Challenges to Reforms

- (a) **Political will and commitment** are inconsistent
- (b) **Corruption and resource constraints** hinder effective implementation
- (c) **Deep-rooted socio-economic issues** are complex and require broad-based strategies

4. Conclusion

As of 2025, Nigeria's correctional facilities hold approximately 70,000 individuals across 240 centers. Alarming, around 70% of these individuals are pre-trial detainees who are still navigating various stages of the legal process, including arraignment, repeated adjournments, and, in some cases, prolonged neglect. They have neither been convicted nor acquitted. Nigeria ranks among the countries with the highest proportion of pre-trial detainees globally. According to the World Prison Brief, Ghana has a rate of 12.4%, and South Africa stands at 32.9%, significantly lower than Nigeria's.

Section 36(5) of the 1999 Nigerian Constitution clearly affirms the principle of presumption of innocence, stating that anyone accused of a criminal offence is to be treated as innocent until proven guilty. However, the practical reality often contradicts this

guarantee. In many instances, individuals are presumed guilty upon arrest, detained without proper investigation, and held for long periods due to an overburdened judiciary plagued with excessive case backlogs.

This situation also violates Section 296 of the Administration of Criminal Justice Act (ACJA) 2015, which mandates that suspects held on remand should not exceed 28 days in custody. Persistent delays and systemic inefficiencies within the legal system continue to erode human rights and undermine constitutional protections.

Effectively addressing the issue of prison congestion in Nigeria requires a multi-dimensional strategy. This includes legal and policy reforms, improvement of judicial infrastructure, socio-economic support systems, and a more efficient justice delivery process. Long-term success will depend on strong political commitment, adequate financial investment, and a genuine adherence to human rights and rule of law.

5. Recommendations

The Legal Aid Council requires additional support and resources to function effectively. Expanding its workforce by hiring more legal practitioners will enable the provision of free legal services to indigent inmates, the majority of whom cannot afford private representation, as evidenced by multiple studies.

There is also a critical need to adopt modern technology within the criminal justice system. Digital platforms should be developed to facilitate communication and collaboration among police officers, correctional authorities, and members of the judiciary. For instance, an integrated case management system could be created where law enforcement agencies upload case files to a shared portal. This database would then be accessible to correctional and judicial officials and contain comprehensive records such as charges, personal information of defendants, and trial updates.

For minor infractions and non-violent offenses, alternative penalties such as community work or monetary fines should be considered instead of custodial sentences. Moreover, expanding the use of plea bargaining would significantly help in easing overcrowding in correctional facilities. Agencies like the EFCC and ICPC have recently utilized this method with encouraging results.

Other recommendations include:

(a) Poverty Reduction and Social Development- This includes funding initiatives for skills development, educational access, and job creation, alongside strengthening support systems for at-risk communities.

(b) Community Engagement- Encouraging locally driven crime prevention efforts through public awareness campaigns and education on legal rights and the justice system.

(c) Multi-Stakeholder Collaboration- Establish multi-sectoral task teams comprising representatives from government agencies, the judiciary, civil society organizations, and global development partners. It is also essential to conduct frequent policy evaluations and adjust strategies based on evidence and stakeholder input.

(d) Public Awareness and Campaigns- Raising public awareness about individual legal entitlements and ongoing changes within the criminal justice system.

(e) Regular Reporting- Releasing yearly updates on correctional system improvements and using the collected data to guide evidence-based policy revisions.

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The Role of Law in Ensuring Equitable and Sustainable Use of Water in Africa

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Abstract. The article examines the role of law in regulating water quality as a mechanism for achieving sustainable development in Africa. Water remains a vital yet increasingly scarce resource, strengthening public health, food security, energy production, and socio-economic development. However, inequitable distribution, pollution, governance inefficiencies, and the escalating impacts of climate change have intensified water insecurity across the continent. Using a doctrinal research approach, the study highlights the importance of sustainable water use for human needs while safeguarding ecosystems for present and future generations. The paper argues that effective legislation and governance are key to ensuring water quality suitable for different purposes. The article concludes by highlighting how legal frameworks can strengthen water governance, improve resource allocation, and guide policy reforms. It therefore recommends planning, development, implementation, and administration of water quality management policies and effective legal instruments for adequate protection of surface water for sustainable development through legislation guided by empirical facts.

Keywords: Water quality, Legislation, Africa, Climate Change, Public health, Sustainable development.

1. Introduction

Water is a precious natural resource that is indispensable to life, development, and the environment. This universal resource is often taken for

granted and abused, particularly in third-world nations such as Africa, where information is neither readily accessible nor disseminated to society. Water can be a source of survival or destruction, depending on its availability, quality, and management. When present in excess, it causes floods and devastation; when scarce, it results in drought, famine, and disease. Water quality is a term used to describe the chemical, physical, and biological characteristics of water, usually with respect to its sustainability for its intended purpose.

The role of the legal system in ensuring water quality for sustainable development is founded on effective legislation. The principle of sustainable development has been applied in international environmental law to champion a shift in resource management, more importantly, in developing a framework for Sustainable Development Goal 6 (SDG 6) on water and sanitation.¹ Sustainable development refers to a “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”² In 2015, SDG 6 on water and sanitation was adopted as part of the 2030 Agenda for Sustainable Development.³ The importance of Goal 6 is to ensure the availability and sustainable management of water, achieve universal access to safe drinking water, and improve water quality by reducing pollution-related activities caused by industrial and non-industrial waste. Sustainable use of water for the benefit of future generations is highlighted in this paper.

¹ World Commission on Environment and Development (WCED), *Our Common Future* (Oxford University Press, 1987) 43.

² *Ibid.*

³ United Nations General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, A/RES/70/1 (25 September 2015).

Our environment is already watered down by both natural and anthropogenic activities, especially in developing countries, due to the quest for development. The problem of unsustainable use of water, water conservation, abusive use of water resources, methods of management of water quality, regulatory framework for water quality management, challenges militating against water quality management in Africa and sustainable development of natural resource in the environment with a view to proposing legal and institutional framework, for advancing water quality for sustainable development will be discussed in this paper.

The article critically examines the following laws and policies governing sustainable water management across Africa: African Union (AU) Agenda 2063 on Water Sustainability and Governance, West Africa Water Resources Policy (WAWRP) 2008, SADC Protocol on Shared Watercourses, SADC Protocol on Fisheries 2001, the National Environmental Standard and Regulations Agency (Establishment) Act 2007, National Environmental (Surface and Ground Water Quality Control) Regulations 2011, National Environmental (Soil Erosion and Flood Control) Regulation 2011, and the National Environmental (Textile, Wearing apparel, Leather and Footwear Industry, Regulations 2009 and thereafter, recommend appropriate pragmatic and preventive policies and measures towards utilization of sustainable water management in African.

The place of regulation and legal oversight of water quality is a critical global concern. Although over two-thirds of the Earth's surface is covered by water, only 3% is freshwater for human consumption, agriculture, and industry. Human activities, increasing population, development, and the wastage of water are placing enormous pressure on the limited freshwater resources, thereby reducing both their availability and quality. In Africa, where water scarcity is pronounced, inefficient use and wastage exacerbate water stress, with pollution further threatening environmental sustainability, public health, and economic development.⁴ For instance, Sub-Saharan Africa

suffers greater levels of water stress than many other regions in the world.⁵ Effective water resource management, supported by regulatory frameworks, legal redress, and judicial oversight, is essential to curb wastage, ensure equitable access, protect freshwater ecosystems, and promote sustainable development across Africa.

Apart from the introduction, this paper is structured into five substantive parts. The first part presents the conceptual framework establishing the foundations for understanding the regulation of water quality within the meaning of sustainable development. The second part examines the key sources of water quality degradation across Africa, particularly Nigeria, identifying the human-induced factors that contribute to the continent's growing water insecurity. Part three turns to the African regional framework, reviewing the policies, instruments, and institutions that shape water quality management at the continental level. This is followed by a detailed analysis of Nigeria's domestic legal framework which highlights national laws, policies, and regulatory mechanisms governing water quality management. Part five addresses the challenges militating against effective water quality management for sustainable development, while the sixth part advances recommendations designed to strengthen governance, legislation, and implementation strategies. The final part concludes the paper by synthesizing the key findings and reflecting on the critical role of law in promoting sustainable water quality management as a cornerstone of Africa's sustainable development.

2. Conceptual Framework

Water is a universal resource that is often taken for granted and mismanaged, particularly in developing regions such as Africa. This is true, owing to the fact that information on the use, availability and quality of water is neither readily accessible nor effectively disseminated to the public.⁶ To confirm this, the United Nations Conference on Environment and Development (UNCED)⁷ states thus: "in sustainable development... the need for information arises at all

⁴ Tatlock W. Christopher, "Water Stress in Sub-Saharan Africa" *Council on Foreign Relations*, (2006), <https://www.cfr.org/background/water-stress-sub-saharan-africa#:~:text=Where%20are%20water%20problems%20most,also%20suffer%20from%20water%20stress>. Accessed 13 November 2025.

⁵ *Ibid.*

⁶ UNESCO, "UN World Water Development Report 2020 : Water and Climate Change" (2020), <https://www.unesco.org/en/wwap/wwdr/2020>. Accessed 14 November 2025.

⁷ Kelly O'Neill, United Nations Research Institute for Social Development (UNRISD Discussion Paper No. 111), "Internetworking for Social Change: Keeping the Spotlight on Corporate Responsibility, (September 1999),

levels, from ... senior decision-makers... to the grass-roots and individual levels.... Examples of the information that needs to be shared broadly include ... fresh water.”⁸ Again, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) through its IHP/VIII “Water Security” report states as follows:

Water quality degradation is becoming one of the greatest threats to freshwater sustainability in addition to its negative health and environmental impacts. ... A prerequisite for integrated land and water resources management ... requires ... appropriate data management systems to store and manage historical and real-time data, set up protocols that facilitate data and information access and sharing among different stakeholders ... data access and dissemination are very challenging and difficult tasks.⁹

Although water may seem abundant, clean and safe freshwater is increasingly scarce, particularly in developing regions such as Africa.¹⁰ The quality of water is critical for human health, ecosystem integrity, and socio-economic development. Water quality refers to the chemical, physical, and biological characteristics of water and its suitability for a designated use.¹¹ These characteristics are influenced by substances dissolved or suspended in the water, and scientific measurement is essential to determine whether the water meets required standards. The quality of water needed for domestic washing,

irrigation, or industrial purposes differs substantially from that required for drinking or recreational use.

Water quality is assessed against standards that measure compliance with human and ecological needs.¹² Globally, these standards ensure the protection of ecosystems, human safety, and suitability for consumption. The WHO’s Guidelines for Drinking-Water Quality (GDWQ) formed an authoritative basis for setting national regulations and standards for water safety in support of public health.¹³ In Nigeria, water quality is regulated under the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007, which provides ambient water quality standards.¹⁴ These standards specify water quality criteria, expressed as constituent concentration levels or narrative statements, that ensure the water body is suitable for its intended use.¹⁵ Water quality criteria are elements of the water quality standard expressed as constituent concentration levels or a quality of water that supports a particular use.¹⁶ Water can be classified as “soft” or “hard” depending on the levels of magnesium or calcium salts present, highlighting the variability of natural water resources.¹⁷

The management of water quality relies on regulatory rules, policies, and laws that guide monitoring, supervision, maintenance, and enforcement. Setting these standards involves political, technical, and scientific decisions on the intended use of the water

https://www.files.ethz.ch/isn/29000/dp111.pdf?utm_source=chatgpt.com accessed 13 November 2025. Check.....Agenda 21: *Earth’s Resources – Freshwater* (Chapter 40) (1992).

⁸ *Ibid.*

⁹ UNESCO-IHP-VII-Water-Security: Responses to Regional and Global Challenges (2014-2021), < https://www.coresta.org/sites/default/files/technical_documents/main/UNESCO-IHP-VIII-Water-Security.pdf?utm_source=chatgpt.com> accessed 13 November 2025.

¹⁰ D.O. Omole and E.O Longe,. “An Assessment of the Impact of Abattoir Effluents on River Illo, Ota, Nigeria” (*Journal of Environmental Science and Technology*, 1(2008), 54 – 56.

¹¹ S. A. Bandh and Basharat Mushtag, “Concepts of Water Quality” in *Wastewater Treatment Technology*, Springer Water, https://doi.org/10.1007/978-3-031-86684-5_1, accessed 30 November 2025.

¹² D.L Johnson and Others. “Meanings of Environmental Terms” *Journal of Environmental Quality*

(USA) Lonsbon (1997), <https://www.futo.edu.ng/school/c/health/public> accessed 29 May 2025.

¹³ World Health Organisation, “Guidelines for Drinking-water Quality: Fourth Edition Incorporating the First and Second Addenda” (21 March 2022), https://www.who.int/publications/i/item/9789240045064?utm_source=chatgpt.com accessed 14 November 2025. See also the United Nations Environmental Programme (UNEP) “Water Quality” https://www.unep.org/topics/fresh-water/water-quality?utm_source=chatgpt.com accessed 14 November 2025 on water quality policies for sustainable management, and support to assess and improve water quality.

¹⁴ National Environmental (Surface and Groundwater Quality Control) Regulations, 2011, No. 49 Vol 98.

¹⁵ Regulation 35 of the National Environmental (Surface and Ground Water Quality) Regulations 2011.

¹⁶ *Ibid.*

¹⁷ M.A. Rosalind, *Guidebook to Environmental Law* (London; Sweet & Maxwell, 1994) 169.

body. Different uses demand different standards: for instance, standards for industrial effluent discharge differ from those for drinking water. That is why policy-makers and environmental lawyers play a critical role in defining and enforcing legislation to ensure water is maintained at appropriate quality levels for its identified use.

The vast majority of surface water on the planet is neither immediately potable nor acutely toxic. Consequently, water quality is designated use-specific, developed by scientists to assess the impact of pollutants on water, sediment, and biota. These criteria establish maximum allowable concentrations of substances in a given medium to prevent harm when water is used continuously for a particular purpose. The effective implementation of these criteria, supported by legal frameworks and governance mechanisms, will provide a solid foundation for sustainable water management that safeguards public health and drives socio-economic development across Africa.

3. Key Sources of Water Quality Degradation

Anthropogenic activities contribute to the deterioration of water quality.¹⁸ Water resources are broadly classified into surface and groundwater, each presenting distinct vulnerability pathways. Surface water, usually found in lakes, rivers, streams, and reservoirs, is typically characterized by low mineral content (soft water). Surface water is susceptible to diverse contaminations due to its exposure to the open environment, including agricultural runoff, industrial waste, sewage, and animal waste. The increasing scale of urbanization, industrialization, and agricultural expansion has intensified the pollutant load entering surface water bodies.

Contamination of surface water often arises from improper handling and disposal of toxic waste, indiscriminate discharge of untreated sewage, unregulated dredging, and the excessive application of fertilizers and pesticides. Industrial operations including breweries, soap and detergent plants; pharmaceutical, textile, and paper mills; palm-oil processing; and particularly petroleum industries emit effluents containing heavy metals, hydrocarbons, organic load, and hazardous chemicals.¹⁹ Other sources include abattoirs, livestock farms, residential estates, hotels, commercial complexes, waste-management facilities, and hospitals. Effluents, generated during industrial processing or service operations, degrade water quality when released untreated into nearby rivers and streams.²⁰

Groundwater contamination poses a different but equally serious challenge.²¹ Groundwater is stored in aquifers and accessed through wells and boreholes. It is naturally filtered as it percolates through soil layers, which sometimes remove many pathogens and particulates, generally making it suitable for drinking.²² However, this filtration process does not eliminate dissolved ions or industrial contaminants. As a result, activities such as indiscriminate siting of boreholes near pit latrines, mining operations, refuse burning, and poorly managed waste disposal increase the risk of groundwater pollution. Because groundwater is recharged through infiltrating rainwater and surface runoff, any chemical or material stored, spilled, or disposed of on land has the potential to leach into the subsurface and contaminate the aquifers.²³

The most recognized sources of toxic contamination of groundwater are considered below:

3.1 Industrial Effluents and Water Quality

Abattoirs supply meat to a large population in Nigeria, yet most facilities lack adequate wastewater treatment

¹⁸ Gavrilas Simona and others, "The Impact of Anthropogenic Activities on the Catchment's Water Quality Parameters," *Water*, Vol. 17, (12) (2025). There are also naturally occurring pollutants such as volcanoes and earthquakes.

¹⁹ Mehta Harsha, "Understanding Surface Water Contamination: Causes and Solutions" <https://biocascades.com/articles/understanding-surface-water-contamination/> accessed 14 November 2025.

²⁰ K. Iyeoma et al, "Industrial Effluents and their Impact on Water Quality of Receiving Rivers in Nigeria"

<http://www.trisanita.org/jades> accessed 2 January, 2024.

²¹ S. Yang, *Strategies for Controlling Industrial Wastewater Pollution in Beijing in the Urban Environment* (U.S.A Library Congress, 1995) 166.

²² Foster, S. and Chilton, P. (2003), "Groundwater: the Processes and Global Significance of Aquifer Degradation," *Philosophical Transactions of the Royal Society B*, (5 November 2003), <https://doi.org/10.1098/rstb.2003.1380> accessed 14 November 2025. Vol. 358, Issue 1440.

²³ *Ibid.*

systems. Unlike developed countries, where abattoir systems are mandatory, many abattoirs in Nigeria discharge untreated blood, fats, faecal matter, and animal tissue into nearby rivers and drains.²⁴ These effluents introduce microbial pathogens, organic pollutants, nutrients, and suspended solids into water bodies, heightening the risk of water-borne diseases. Contaminants can accumulate in streambed sediments, and when the sediments are disturbed, bacteria and pollutants can be resuspended, worsening environmental pollution and posing serious public-health hazards.²⁵

3.2 Sewage and Water Quality

Sewage effluent exerts a substantial biochemical oxygen demand (BOD) on receiving waters. As the organic matter decomposes, it consumes dissolved oxygen needed by aquatic organisms, leading to oxygen depletion and the death of fish and other biota. The presence of sewage sludge, which may contain toxic or pathogenic residues, further exacerbates the degradation of water quality also posing risks to public health.²⁶

3.3 Agriculture and Water Quality

Agricultural activities are a major non-point source of water pollution in Nigeria. Fertilizers, pesticides, herbicides, and livestock manure applied to farmlands are washed into rivers, lakes, and reservoirs through runoff or leached into groundwater. Excess nutrients, particularly nitrogen and phosphorus, promote eutrophication, leading to algal blooms and oxygen depletion.²⁷ Soil sediments, salts, and pathogens from livestock operations further degrade water quality, affecting aquatic ecosystems and reducing the suitability of water for domestic, industrial, and

recreational uses. Irrigation returns, flows and effluent from large livestock units worsen these effects.

Abusive Use of Water Resources

Water resources in Nigeria are increasingly threatened by unsustainable practices that undermine water quality, availability, and long-term ecological health. These challenges are worsened by limited public awareness, poor environmental literacy, and weak institutional regulation.²⁸

3.5 Indiscriminate Drilling of Boreholes

Residents in Nigeria have resorted to private borehole development in response to the failure of the government to provide reliable portable or pipe-borne water.²⁹ As a result of this, borehole proliferation has increased without any form of hydrogeological assessment, regulatory supervision, or environmental impact assessment. This is why mostly in the urban areas, almost every house has a borehole facility attached to it. This undoubtedly led to sinking boreholes near pit latrines, septic tanks and waste dumpsites; use of inappropriate drilling depths, facilitating contamination of shallow aquifers; and violation of regulations. Studies in Africa, particularly Nigeria, have shown that the proximity of boreholes to sanitation facilities (pit latrines, septic tanks, or waste dumps) significantly increases contamination with faecal coliforms, nitrates, and pathogens, undermining drinking water safety.³⁰

3.6 Improper Waste Management

Indiscriminate disposal of solid waste, industrial residues, wastewater, and e-waste contaminates nearby water. This is because waste management systems are weak. Such wastes stream deep into both surface and groundwater sources, introducing heavy

²⁴ C. Obgonnaya, Analysis of groundwater pollution from abattoir waste in Minna, Nigeria Research Journal of Dairy Science Vol. 2 (4), (2008) 74 – 77.

²⁵ W. D. Nafarnda and others, “Impact of Abattoir Waste on Aquatic Life: A Case Study of Yola Abattoir” *Global Journal of Pure and Applied Sciences*, vol. 12, (2006) 31 – 33.

²⁶ Zeng Jie and others, “Influence of Sewage Effluent Discharge on Putative Pathogen Community in Drinking Water Sources: Insights from Full-Length 16S rRNA Gene Amplicon Sequencing” *Journal of Water Health*, 23 (1), (2025) 43-57.

²⁷ Soon-Jin Hwang, “Eutrophication and the Ecological Health Risk” *International Journal of Environmental Research and Public Health* (IJERPH), (17) (17), (2020) 6332.

²⁸ Akpabio, E. M, “Water Supply and Sanitation Services in Nigeria: Gaps in Information and Institutional Weaknesses” *Habitat International* (2012).

²⁹ Nwachukwu, G. A., and Onyenechere, E. C., (2023). “Quality Assessment of Borehole Water in Nigeria” *Journal of Agriculture and Food Sciences*. <https://www.ajol.info/index.php/jafs/article/download/262433/247752> accessed 24 November 2025.

³⁰ Adegbola, A.A., and Brieger, W.R., “Water, Sanitation and Hygiene Practices among Nigerian Households: Implications for Borehole Siting and Groundwater Safety.” *Journal of Water, Sanitation and Hygiene for Development*, 10 (4), (2020) 654-662.

metals, endocrine disruptors, pathogens, and persistent organic pollutants into the food web.³¹ Most companies lack the equipment for waste treatment before disposal, and dumpsites require appropriate approval for a particular type of waste. Examples of such wastes are wastewater, solid waste, and electronic waste. The disposal of these wastes constitutes groundwater pollution. The implication of this is the attendant hazard it poses to human health, and where such waste is dumped on water, it could constitute a threat to the existence of aquatic life, causing eutrophication, fish mortality, and habitat degradation. Research has shown groundwater contamination from dumpsites in cities such as Lagos, Abuja, Port Harcourt, and Ibadan, where lead, cadmium, chromium, and microbial contaminants were detected at levels exceeding WHO limits.³² In Onne, Port Harcourt, Nigeria for instance, industrial effluent containing a high level of ammonia from NAFCON, a fertilizer company, was discharged into the Okrika River. This resulted in massive fish killing and socio-economic problems for the fishing industries in the surrounding villages.³³

3.7 Oil Spills in the Oil Industry

Oil spills are one of the major sources of water pollution in Nigeria, particularly in the Niger Delta where decades of extraction, pipeline ruptures or vandalization, artisanal refining, and operational failures have caused extensive environmental devastation.³⁴ The consequences of oil pollution in our

waters include contamination of rivers, streams, wetlands and groundwater; destruction of mangroves and aquatic biodiversity; loss of agricultural productivity; and loss of livelihoods are devastating. The late Prof. Ambrose Alli captured this devastation poignantly: “Vast tracts of agricultural land have been laid waste...surface waters and river courses are invariably contaminated...the aquatic life is destroyed...inhabitants become impoverished and deprived.” According to late Professor Ambrose Alli: As a result of oil losses, vast tracts of agricultural land have been wasted, thus becoming unproductive, surface water courses are invariably contaminated and polluted rendering the water undrinkable and the aquatic life is destroyed, the result is great hardship to the inhabitants who become impoverished and deprived. These citizens are therefore compelled to migrate to other towns and villages in search of decent life.³⁵

This equally aligns with international findings that oil-polluted water is unsafe for consumption, fishing, irrigation, or domestic use.³⁶

The world population has tripled in the last century, and water demand has increased six-fold.³⁷ Today, over a billion people lack access to safe drinking water, and about 2.4 billion lack improved sanitation.³⁸ Also, half of all illnesses in developing countries are linked to unsafe water and inadequate sanitation.³⁹ As water is essential to life, any contamination, whether through drinking, food preparation, or household use,

³¹ Ogwueleka, T.C., “Municipal Solid Waste Characteristics and Management in Nigeria” *Journal of Environmental Health Science & Engineering*, 6 (3), (2009) 173-180. <https://ijehse.tums.ac.ir/index.php/jehse/article/view/209>, accessed 24 November 2025.

³² Igwe, K. O., and others, “Impact of Discharge Fertilizer Effluents on the Toxicological Profile of Fish Harvested from a Receiving Creek in Okirika, Rivers State,” *Waste Technology (WasTech)*, 4 (2) (2016) 15-17.

³³ *Ibid.*

³⁴ United Nations Environment Programme (UNEP), “Environmental Assessment of Ogoniland: Site Factsheets, Executive Summary and Full Report,” (2011). <https://www.unep.org/resources/assessment/environmental-assessment-ogoniland-site-factsheets-executive-summary-and-full> accessed 25 November 2025.

³⁵ A.F. Alli, *The Petroleum Industry and the Nigerian Environment Proceedings* (1981), at 20, cited in A.M

Akatugba, *Legal Framework for Environmental and Sustainable Agricultural Production*, 2 DLR (2006), AT 390 (The Ceremonial Opening Address). See also Amnesty International Report, *The News*, 19 October, 2009.

³⁶ UNEP, 2011 (note 34).

³⁷ United Nations Department of Economic and Social Affairs (UNDESA), “Safe Drinking Water, Sanitation, are ‘Basic Human Rights’: New UN Water Development Report” (19 March 2019), <https://www.un.org/development/desa/en/news/sustainable/new-un-water-development-report.html#:~:> accessed 14 November 2025.

³⁸ UNICEF/WHO, “Progress on Household Drinking Water, Sanitation and Hygiene/2000-2017,” <https://www.unicef.org/media/55276/file/progress-on-drinking-%20water-sanitation-and-hygiene-2019.pdf> accessed 14 November 2025.

³⁹ World Health Organisation, “Drinking Water” (13 September 2023), <<https://www.who.int/news-room/fact-sheets/detail/drinking-water#>> accessed 14 November 2025.

poses severe health risks including cholera, typhoid, dysentery, hepatitis, heavy-metal poisoning or even death. Without water, man cannot live more than a few days, and for this reason, water must be accessible and safe, because contaminated water, whether for drinking or for cooking, will certainly impact negatively on people's health.⁴⁰

3.8 Sand Mining and Riverbed Excavation

In Nigeria, unregulated sand mining along riverbanks and floodplains is widespread, exacerbated by construction demand. Excessive sand extraction increases turbidity, accelerates erosion, destabilises river channels, alters hydrological flow and depletes groundwater tables.⁴¹ Most activities in Nigeria occur without Environmental Impact Assessment (EIA) permits, in violation of the Environmental Impact Assessment Act.⁴² Only project financing institutions such as World Bank ensure that EIA is carried out to ascertain the likely impact of a proposed project on the environment.

3.9 Heavy Metal Leaching

Mechanised and artisanal mining of gold in Nigeria has significantly contributed to environmental pollution, particularly through the release of mercury and other heavy metals into Nigerian rivers and seas. For instance, in States such as Zamfara, Niger and Plateau, mining activities generate contaminated runoffs that infiltrate groundwater systems, posing great risks to drinking water quality, aquatic ecosystems, and public health. Reports have consistently highlighted that these pollutants not only degrade water resources but also accumulate in soils and food chains, thereby intensifying the long-term ecological and socio-economic consequences of unregulated mining practices.⁴³

⁴⁰ J. Scamlon, and others, "Water as a Human Right", Paper presented at the IUCN/UNEP Western European Judges Symposium, Rome, Italy and the IUCN/UNEP Eastern and Central European Judges Symposium, Lviv Ukraine (May 2003) p. 105.

⁴¹ Akpokodje, E.G. and Akaha, C.T., "Environmental Impact of Sand Mining in Nigeria," *Journal of Sustainable Development in Africa*, 21 (3), (2019) 45-60.

⁴² EIA 1992, Cap E12 Laws of the Federation of Nigeria 2004.

⁴³ Anka A. S, "Lead Poisoning in Zamfara State Nigeria: Effects on Environmental Health", (13 March 2024),

4. Water Quality Management in Africa

4.1 African Regional Frameworks

4.1.1 African Union (AU) Agenda 2063 on Water Sustainability and Governance

The African Ministers' Council on Water (AMCOW) in 2025 at its 14th ordinary session, adopted the Africa Water Vision 2063 and Policy (AWVP63), as a continental framework to achieve inclusive and climate-resilient water security, in alignment with Agenda 2063 and the Sustainable Development Goals. It redefines water as a driver of prosperity: food security, energy, trade, and industry; a bridge of peace acting as shared pathways to cooperation among African nations.

The Africa Water Vision 2063 and its policy framework are to be endorsed at the 39th AU Summit in 2026 to unify African countries around continental priorities and elevate Africa's voice at the UN Summit in 2026 Water Conference.⁴⁴

The African Ministers' Council on Water (AMCOW) plays a critical role in co-ordination of policy and promoting integrated water resources management (IWRM) among African member states. The IWRM includes four basic principles:

- Freshwater is a finite and vulnerable resource, essential to sustain life, development, and the environment.
- Water development and management should be based on a participatory approach, involving users, planners, and policymakers at all levels.
- Women play a central part in the provision, management, and safeguarding of water.

<https://www.intechopen.com/chapters/88255> accessed 17 October 2025. The Zamfara lead poisoning epidemic/outbreak which led to death of over four hundred (400) children was as a result of illegal mining.

⁴⁴ Albuquerque Catarina, "Africa Adopts the Water Vision 2063 and Policy: A Continental Compass for Prosperity, Peace, and Resilience" <<https://amcow-online.org/africa-adopts-the-water-vision-2063-and-policy-a-continentalcompass-for-prosperity-peace-and-resilience/#:~:text=%E2%80%A2,more%20than%20two%20decades%20of>> assessed 16 November 2025.

- Water has an economic value in all its competing uses and should be recognized as an economic good.

Integration and alignment of these four principles into domestic and regional frameworks are essential to achieve sustainable development. Nigeria will benefit from this framework if it integrates it, aligns its regulation, and climate-resilient water infrastructure.

4.2 Sub-Regional (Regional Economic Community) Water Quality Frameworks

The legal basis of the West African regional water policy is rooted in:

the harmonization and coordination of national policies and the promotion of programmes, projects and activities, especially in the field of agriculture and natural resources;⁴⁵ and

to promote, coordinate and ensure the implementation of a regional water resource policy in West Africa, in accordance with the mission and policies of ECOWAS.⁴⁶

West Africa has a surface area of more than 6 million km² and a population exceeding 260 million.⁴⁷ The region is characterized by strong interdependence among its states for water resources. These resources hold immense potential for citizens; however, the region is confronted with situations detrimental to its development.

Water availability is under increasing pressure due to shrinking storage, rising demand, pollution, land-use change, and environmental degradation, all compounded by climate change.⁴⁸ Access to safe drinking water and sanitation remains limited, while irrigated agriculture remains marginal, with only about 10% of potentially irrigable land cultivated. The potential for hydroelectricity is enormous, but only 16% of this potential is exploited. Climate change continues to intensify these threats, reinforcing the urgent need for sustainable management of water resources.⁴⁹

⁴⁵ Article 3 of the Economic Community of West African States Revised Treaty 2008.

⁴⁶ Article 2 the Statutes of the Permanent Framework for Coordination and Monitoring of IWRM in West Africa (PFCM-IWRM/WA).

⁴⁷ World Population Review, (2025), <https://worldpopulationreview.com/continents/western-africa/> accessed 29 November 2025.

⁴⁸ World Bank Group, “Water for Planet” (2025), <<https://www.worldbank.org/en/topic/waterresourcesmanagement/>> accessed 29 November 2025.

⁴⁹ *Ibid.*

4.2.1 West Africa Water Resources Policy (WAWRP)

The West Africa Water Resources Policy (WAWRP) 2008 remains the primary framework for water management and water quality governance in the region. The policy provides strategic guidance to member states of the Economic Community of West African States (ECOWAS) to promote the principles of integrated water resources management (IWRM) and achieve sustainable water management.⁵⁰ It adopts a holistic approach (IWRM) that considers all water uses and stakeholders, promoting ecologically rational and sustainable use of water resources. It adopts a holistic approach (IWRM) that considers all water uses and stakeholders, promoting ecologically rational and sustainable use of water resources.

Central to the WAWRP are the principles of precaution, prevention, and the polluter-pays doctrine, which collectively aim to safeguard water resources against degradation. The policy integrates water quality objectives by mandating the adoption and enforcement of standards regulating polluting discharges. Its vision is to ensure universal access to safe drinking water and effective waste disposal systems by 2025, to protect public health and biodiversity.⁵¹ Ultimately, WAWRP seeks to contribute to poverty alleviation and sustainable development by guiding ECOWAS member states toward water management approaches that reconcile economic growth, social equity, and environmental preservation.

4.2.2 ECOWAS Water Resources Coordination Centre (WRCC)

The ECOWAS WRCC plays an important role in operationalizing WAWRP. It functions as a regional institution tasked with enhancing resilience to climate

risks, including floods, and droughts, through coordinated water resources planning. The WRCC's strategic importance is accentuated by its 2030 Action Plan which prioritises climate-water resilience as a cornerstone of regional adaptation strategies.⁵² Complementing these efforts are guidelines on water governance and transboundary pollution control, which provide normative direction for member states in managing shared watercourses.

In practice, WAWRP's principles are operationalized through ECOWAS protocols on water governance and transboundary pollution control. For instance, Nigeria, as a riparian state⁵³ to several shared watercourses, is subject to cooperative management obligations under these protocols. This illustrates how regional frameworks are translated into national responsibilities, thereby reinforcing the collective approach to sustainable water resource management.⁵⁴

4.2.3 Southern, African Development Community (SADC) Protocol on Shared Watercourses

This Protocol was originally signed on 28 August 1995 by 15 member states but entered into force on 29th September 1998. The original protocol was later repealed and replaced by the Revised Protocol on Shared Watercourses, signed on 7th August 2000, and entered into force on 22 September 2003. It is a model example of strong African cooperation.

The SADC framework for water quality standards and pollution control emphasizes the sustainable management of shared watercourses through regional strategies, common minimum standards, and member state cooperation. Key initiatives include harmonizing water quality standards across member states, ensuring environmental impact assessments (EIAs) for new projects, managing alien invasive species, and implementing coordinated monitoring

instance, this means nations located along major transboundary river basins such as the Niger River, Senegal River, Gambia River, and Lake Chad Basin. The term riparian comes from the Latin word "ripa" meaning "river bank." A riparian state is therefore a country situated along the banks of a river or stream, with rights and responsibilities for its use and management.

⁵⁴Miguel Roy Whitehead Dos Santos, "Water Cooperation within West Africa's Major Transboundary River Basins" *Regions and Cohesion*, <https://www.berghahnjournals.com/view/journals/regions-and-cohesion/13/2/reco130203.xm>. Accessed 29 November 2025.

⁵⁰ West Africa Water Resources Policy (WAWRP), <https://washnigeria.com/wp-content/uploads/2022/11/West-Africa-Water-Resources-Policy.pdf> accessed 16 November 2025.

⁵¹ *Ibid.*

⁵² ECOWAS Regional Climate Strategy (RCS) and Action Plan (2022-2030), (April 2022), https://ecowap.ecowas.int/media/ecowap/file_document/2022_ECOWAS_Regional_Climate_Strategy_and_Action_Plan_2022-2030_EN.pdf?utm_source=chatgpt.com accessed 18 November 2025.

⁵³ A riparian state is any country that shares a river or watercourse with other countries. In West Africa for

programs to address pollution and protect water resources.

The objective of water quality standards and pollution control in SADC is to harmonise and uphold common minimum standards for water quality in shared watercourses, and ensure consistency across the region. Member states are therefore committed to preventing the import of pollutants for disposal that could affect shared watercourses, exercising both individual and collective responsibility for controlling alien invasive species, mandating EIAs for development initiatives in watercourses, and encouraging strategic environmental assessments to evaluate potential environmental impacts.⁵⁵

Regional basin management organisations, such as those for the Limpopo and Zambezi rivers play a critical role in implementing these standards and coordinating transboundary water governance.

In addition to the Watercourses Protocol, SADC member states have also entered into various other agreements relevant to water bodies. For instance, the Dar-es-Salaam Declaration on Agriculture and Food Security (Dar-es-Salaam Declaration), signed in 2004, seeks to improve water management and irrigation by allowing member states to allocate a portion of their agricultural budgets to water management and irrigation development, and developing programs to improve flood and drought mitigation and water harvesting technologies.⁵⁶

4.2.4 East African Community (EAC) Water Policies

The East African Community (EAC) has also developed water policies that complement SADC's initiatives, focusing on integrated water resources management, pollution control, and regional cooperation. For instance, the EAC Water Quality Management Policy Guidelines 2021 was developed to address water quality challenges threatening millions of livelihoods dependent on water for health

and socio-economic development. The objective is to strengthen prevention and control of water pollution from point and non-point sources, as well as to harmonise water quality standards across member states.⁵⁷

East Africa integrates a gender dimension into water governance, recognizing that women occupy and play a central role in water access, use, and management. Despite this critical involvement, women continue to encounter systematic barriers that limit their participation in decision-making processes.⁵⁸

4.2.5 SADC Protocol on Fisheries

The SADC Protocol on Fisheries, signed in 2001 and entered into force in 2003 is a landmark regional agreement on aquatic ecosystems. Its primary objective is to:

“promote responsible and sustainable use of the living aquatic resources and aquatic ecosystems of interest to State Parties. The Protocol emphasises enhancing food security and human health through sustainable fisheries; safeguarding the livelihoods of fishing communities; generating economic opportunities for nationals in the Region; and ensuring that future generations benefit from these renewable resources; and contributing to poverty alleviation with the ultimate objective of its eradication.”⁵⁹

This framework complements the Revised Protocol on Shared Watercourses by extending cooperation beyond water quality to the conservation of aquatic ecosystems. It applies precautionary principle, requiring member states to prevent activities within their jurisdiction from causing excessive transboundary adverse impacts.

The SADC fisheries and watercourse frameworks align with the African Union's Agenda 2063, which positions water and sanitation as strategic assets for inclusive prosperity, regional integration, peace, and human dignity. The vision of a “water-secure and

⁵⁵Revised Protocol on Shared Watercourses in the Southern African Development Community 2000. https://zambezicommission.org/sites/default/files/publication_downloads/revised_protocol_on_shared_watercourses_-_2000_-_english.pdf accessed 29 November 2025.

⁵⁶Southern African Development Community – SADC – Groundwater and Drought Management Project, < <https://iwlearn.net/iw-projects/970>> accessed 16 November 2025.

⁵⁷East African Community Lake Victoria Basin Commission, “Water Quality Management Policy Guideline”https://www.lvbcom.org/wp-content/uploads/2025/07/Policy_brief-on-EAC-Water-Quality-M_Policy-Guidelines-2.pdf accessed 29 November 2025.

⁵⁸UNESCO, “Gender Perspective of Water Use and Governance in Eastern Africa: a Systematic Review” (2023) <https://www.unesdoc.unesco.org/ark:/48223/pf0000386225> accessed 29 November 2025.

⁵⁹ Article 3 SADC Protocol on Fisheries 2001.

resilient Africa with safe sanitation for all” situates water governance as a driver of social transformation, economic growth, food security, poverty eradication, climate resilience, and regional integration.⁶⁰

Regulatory Framework for Water Quality Management in Nigeria

Nigeria has laws and regulations to prevent water pollution and ensure water sustainability. As a result, violations of such laws and regulations lead to penal sanctions and fines. Although enforcement of these laws remains at the periphery, Lagos State has been able to identify offenders and prosecute them, which ultimately results in jail term to serve as deterrents to prospective offenders.⁶¹ Some of these laws and regulations will be examined below:

4.3.1 The National Environmental Standard and Regulations Agency (Establishment) Act⁶²

As a primary regulatory agency for environmental protection in Nigeria, the National Environmental Standards Regulation Agency (NESREA) enforces compliance with laws, guidelines, policies and standards on environmental matters; coordinates, and liaises with stakeholders within and outside Nigeria, on environmental standards, regulations, and enforcement.⁶³ Under regulation 7 (d), the agency has the responsibility to enforce compliance with policies, legislation and guidelines on water quality, environmental health and sanitation, including pollution abatement. For water bodies other than in the oil and gas sector, the agency enforces standards through monitoring.⁶⁴ Water pollution is a result of contamination of water bodies, usually caused by human activities, negatively impacting lakes, rivers, oceans, aquifers, reservoirs and human health. As a result, the agency ensures public awareness and environmental education on sustainable management.⁶⁵ Public awareness of the impacts may help in curtailing the illegal use of our resources and polluting the water bodies. Distorting or denying the

consequences of anthropogenic activities on the environment can perpetuate harmful stereotypes or false narratives that may lead to dangerous consequences.

The achieve its numerous responsibilities under the Act, the agency has the powers to enter and search premises with a warrant issued by a court, take a sample or specimen of any article, open and examine, seize and detain; obtain an order of a court to suspend activities, seal or close down premises including any inland water to protect the environment and prevent pollution.

4.3.2 National Environmental (Surface and Ground Water Quality Control) Regulations 2011⁶⁶

By virtue of section 34 of this Act, the primary purpose of this regulation is to restore, enhance, and preserve the physical, chemical, and biological integrity of Nigeria’s surface waters, while safeguarding existing water uses.⁶⁷ To achieve this, the regulation establishes standards designed to protect surface waters from pollution. It specifically prohibits the discharge of pollutants, urban runoffs, hazardous wastes, hazardous substances, petroleum products, and solvents into Nigerian waters, except in compliance with the Regulation or prior approval from the designated Agency.⁶⁸

Furthermore, Regulations 6, 7, and 8 explicitly prohibit activities that violate established water quality standards or contribute to the degradation of water resources. Nevertheless, the framework allows for new discharges provided they do not impair existing uses or hinder the attainment of designated uses. For example, discharges into non-portable bodies may be permissible in the form of stormwater releases, provided they meet regulatory conditions and do not compromise environmental integrity.⁶⁹

⁶⁰ African Minister’s Council on Water (AMCOW), “Africa Adopts the Water Vision 2063 and Policy: A Continental Compass for Prosperity, Peace, and Resilience” (October 2025), <https://www.amcow-online.org/Africa-adopts-the-water-vision-2063-and-policy-a-continentalcompass-for-prosperity-peace-and-resilience/> assessed 29 November 2025

⁶¹ J Chukwu, “Lagos to Impose N250,000 Fine or Jail Term for Illegal Waste Disposal” *The Telegraph*, (June 2025),

<https://www.telegraph.ng/news/2025/> accessed 30 November 2025.

⁶² (NESREA) ACT 2007.

⁶³ Regulation 7 (a) and (b) NESREA.

⁶⁴ Regulation 7 (h) NESREA.

⁶⁵ Regulation 7 (l) NESREA.

⁶⁶ Statutory Instrument No. 22 of 2011.

⁶⁷ *Ibid*, Regulation 1.

⁶⁸ Regulation 13 of National Environmental (Surface and groundwater quality control) Regulations, 2011.

⁶⁹ *Ibid*, note 48 Regulation 6, 7, 8 and 10.

However, different challenges affect the implementation of the provision, including underfunding and a lack of technical expertise.⁷⁰

4.3.3 National Environmental (Soil Erosion and Flood Control) Regulation 2011⁷¹

In Nigeria, the Minister of Environment, acting under the authority of section 34 of the NESREA Act 2007, has introduced comprehensive regulations to address the growing challenges of flood and erosion. These measures are designed to protect human life, minimise economic losses, and protect water resources from pollution caused by soil erosion, flooding, and sedimentation.⁷² The regulation establishes technically feasible and economically reasonable standards to promote sustainable land and water management practices. Their objectives include:

- Minimizing soil erosion and siltation that degrade rivers, lakes, and reservoirs.
- Conserving floodplains and vulnerable ecosystems to preserve ecological integrity.
- Preventing environmental degradation linked to persistent flooding and sediment deposition.

A key requirement is that erosion and sediment control systems must be installed before any earth-disturbing construction activity begins.⁷³ Furthermore, all infrastructure projects are mandated to incorporate flood management strategies such as surface and subsurface drainage, dams, flood walls, diversion channels, and vegetation planting to stabilise soils and regulate water flow.

The agency shall through conduct an inventory of storm water collection systems of towns and cities in the country which shall include catchment basins, manholes, pipes, culverts, ditches, bridges, streams, rivers, ponds, dams and other features of the existing collection systems for the purpose of identifying erosion susceptible areas.⁷⁴ The Agency shall further enforce all storm water management programmes by establishing procedures for public participation, monitoring and ensuring compliance with Flood and Erosion Technical Guideline 2005.⁷⁵

The regulations prohibit siting of facilities in high-risk flood-prone areas and therefore empowers the Agency to inspect construction and land-use activities. Strict penalties are imposed for violations under section 19 (1) – (2) of the Regulation. The problem with this regulation is implementation, which if implemented will contribute to global efforts towards integrated water resource management.

4.3.4 National Environmental (Textile, Wearing apparel, Leather and Footwear Industry, Regulations 2009⁷⁶

This regulation prevents disposal of hazardous waste on water or land, without prior treatment.⁷⁷ It further ensures that generators of hazardous waste for land filling must provide notification of such to the Agency. This is to prevent illegal dumping of hazardous waste on the environment.⁷⁸ In line with water management and quality of water, Regulation 12 states that there shall not be contamination arising from leakage of surface or underground oil fuel or chemical storage facilities likely to cause pollution of the environment including the surface water and groundwater.

By virtue of regulation 17, facilities which discharge effluent into the environment have the mandate to treat their effluent to the permissible level to ensure assimilation by the receiving medium. As a result, every facility is obligated to carry out effective treatment throughout its operation phase; ensure the environmentally sound management and disposal of sludge containing heavy metals; ensure the treatment of toxic organics contained in both effluent and sludge, and ensure that effluent is not diluted to achieve the standards contained in Schedule I to the Regulations.⁷⁹

The requirement for treating effluent to permissible levels ensures that rivers, lakes, and groundwater are not polluted by untreated industrial discharges, to maintain safe water for drinking, agriculture and ecosystems. Heavy metals, and toxic organics in sludge can leach into water if poorly handled. The mandate on environmentally sound disposal prevents long-term contamination of aquifers and soils.

⁷⁰ A.A Adedej. and R.T. Ako, “Hindrances to Effective Legal Response to the Problem of Environmental

Degradation in the Niger Delta, *Nnamdi Azikiwe University Law J.* 5(1), (2005) 437.

⁷¹ Statutory Instrument no 12 of 2011.

⁷² Regulation 2 (1) (a) – (c) 2011.

⁷³ Regulation 2 (2) (b) of 2011.

⁷⁴ Regulation 6 (1) of 2011.

⁷⁵ Regulation 6 (3).

⁷⁶ Instrument No. 34 of Regulation 2009.

⁷⁷ Regulation 16 (4) 2009.

⁷⁸ Regulation 16 (5) 2009.

⁷⁹ *Ibid.*

5. Challenges Militating against Water Quality for Sustainable Development

Notwithstanding the robust regulatory frameworks to regulate or protect water quality for sustainable development in Africa, particularly Nigeria, water quality remains poor and unabated. The main factors undermining water quality and sustainable development in Nigeria and across Africa are corruption, poor infrastructure, pollution, climate change, weak governance, lack of implementation of existing laws, and rapid population growth and urbanization. These act as clogs in the wheel to achieve sustainable development and will be considered hereunder.

5.1 Corruption

Corruption and deliberate underfunding by state governments are major causes of Nigeria's water sector crisis. Mismanagement and corrupt practices within water agencies have left infrastructure in despair.⁸⁰ A 2025 civil society report titled "Dry Taps: A Damning Verdict on the State of Water Utilities in Nigeria" found that corruption and deliberate underfunding by state governments are major causes of Nigeria's water sector crisis. Mismanagement and corrupt practices within water agencies have left infrastructure in disrepair.⁸¹ This is exemplified by numerous water schemes initiated but left uncompleted across the state.⁸² Some existing water supply systems are old and dilapidated, leading to significant water loss in affected areas.⁸³

5.2 Urbanisation and Population Growth

High population density in cities puts a strain on the water supply. This is evidenced by the rising demand outweighing the supply capacity. The increasing need for water in growing cities is also exacerbated by the

expansion of impermeable surfaces from buildings and roads, which leads to increased runoff and flooding, and the over-exploitation of groundwater, which also depletes the aquifers. Rapid and unplanned urban growth results in insufficient infrastructure to manage wastewater, leading to contamination and public health risks. High demand for urban use leads to over-extraction of groundwater, causing aquifer depletion. Informal settlements lack sanitation, leading to contamination of water resources nearby.

5.3 Lack of Awareness and Poor Public Enlightenment

The Environmental Impact Assessment (EIA) Act 1992 mandates compulsory consultation with stakeholders in the process of environmental monitoring and management. However, reports indicate that integrated water resource management in Nigeria continues to face significant challenges due to weak institutional frameworks and poor stakeholder participation, which in turn undermines national development.⁸⁴

Investigations reveal that regulatory agencies have no comprehensive environmental data or community-based management programmes.⁸⁵ Although the EIA Act and the NESREA regulations provide for public participation, these provisions are often treated with glove hands. As a result, local communities lack access to environmental study documents that outline how monitoring should be conducted to prevent pollution and ensure sustainable resource management. This is also critically undermined by the Constitution of the Federal Republic of Nigeria that does not mandate environmental data as a public document.

5.4 Improper Waste Management

⁸⁰ Obinna Nwaoku, "Report Uncovers Corruption, Neglect in Nigeria's Water Sector" *The Guardian*, (20 March 2025), <https://www.guardian.ng/news/report-uncovers-corruption-neglect-in-nigerias-water-sector/> accessed 22 November 2025.

⁸¹ Environ News Nigeria, "Report Blames Perilous State of Water on Corruption, Limited Funding by States" <https://www.environnewsnigeria.com/report-blames-perilous-state-of-water-on-corruption-limited-funding-by-state/> accessed 22 November 2025.

⁸² *Ibid.*

⁸³ Adeniran, A. B., "New Pipes, Old Ways: Water Infrastructure Failure, Power, and the State in Nigeria" *The Australian National University, Australia*, (2022).

⁸⁴ Martins Grace and others, "Sustainable Water Resource Management in Nigeria: Challenges, Integrated Water Resource Management Implementation, and National Development" *International Journal of Trendy Research in Engineering and Technology* (9) (1) (2025).

⁸⁵ A Framework for Environmental Reporting in Nigeria's Extractive Industry, <https://neiti.gov.ng/cms/wp-content/uploads/2023/05/NEITI-Environmental-Reporting-Framework-16523.pdf> accessed 30 November 2025.

Most homes and companies lack the requisite equipment to properly treat waste before disposal. The Improper disposal of waste products from our homes, offices, industries, *et cetera* could contaminate nearby water. Dumping sites ought to get approvals before they are used for a particular type of waste. Examples of such wastes are: wastewater, solid waste, and electronic waste. The disposal of such waste could also constitute groundwater pollution. The implication of this is the attendant hazard it could pose on human health, where such waste is dumped on water, it could constitute a real threat to the existence of aquatic life⁸⁶.

5.5 Poor Regulatory Oversight

Nigeria lacks reliable, periodic, and accessible environmental data on water quality monitoring.⁸⁷ This undermines accurate decision-making by government and agencies. Without data, decisions are made on assumptions, weakening the credibility and effectiveness of water policies. The absence of reliable water quality data undermines governance, enforcement, climate resilience, public health and sustainable development. It creates a vicious cycle where weak monitoring leads to poor decisions which in turn worsen environmental degradation and erode trust in institutions.

6. Recommendations on the Challenges to Water Quality for Sustainable Development

The following are recommended to improve water quality management across Africa and Nigeria:

6.1 Strengthen Monitoring and Data Systems

It is important to build a reliable system for collecting water quality data across rivers, lakes, boreholes, and treatment plants. Establishing regular, transparent water quality sampling and reporting frameworks will ensure early detection of pollution, making it possible to act before contamination spreads. Regular sampling will also ensure that water quality trends are tracked over time. Publishing results openly, using digital platforms and Geographic Information Systems (GIS) by the agencies will help to identify hotspots of pollution and areas of risk of flooding.

⁸⁶ O. Obinna, “The State of Environmental Monitoring in Nigeria. A case study of Niger Delta” A Report Submitted to the Environmental Policy Group, Wageninten University in Partial Fulfillment of the Requirement for the Award of Master of Science (M.Sc.) Degree. September 2011.

6.2 Public Awareness and Education

Education and public awareness are important in strengthening water quality management. Training on modern water management practices, and technical knowledge on proper sampling, treatment, and pollution control methods ensure effective monitoring.

There should be proper education on the importance of water sanitation, good waste disposal methods, and the danger of hazardous wastes. Farmers and industries should also be educated through extension services about the dangers of certain chemicals used by them (pesticides, herbicide).

6.3 Improve methods of Measuring Water Quality

One of the primary responsibilities of the government agencies responsible for water resources is to collect data for the provision of social amenities for communities. Establishing a unitary system of drinking water would make it easier to maintain a unified standard of water quality for all citizens. Under such a system, private boreholes would be phased out, as many of them drill without permits from regulatory agencies, and do not have the wherewithal to meet required standards, centralizing water supply will help in enforcing strict standards, and monitoring would become more effective to meet the criteria for safe drinking water globally.

6.4 Adequate means of Waste Management

The method of disposal of hazardous waste and waste generally in Nigeria is by disposal in landfill. This involves indiscriminate burying of waste which is not environmentally friendly because buried waste can leach into the soil and contaminate underground water. The management of solid and Hazardous waste regulations provides for factors that should be considered before permits for landfills are granted; one of which is the construction of a leachate collection and renewal system operated to remove accumulated liquid from the system as quickly as possible. Many landfills across the country do not comply with any of the requirements under the regulation as requisite permits are not obtained before commencement.

⁸⁷ S.U. Wali and others, “Challenges and Opportunities for Sustainable Water Resources Management in Nigeria: A Review” *IIARD International Journal of Geography & Environmental Management* (11) (10) 2025.

6.5 Appropriate funding

Lack of available data may be linked to poor funding. Proper funding of the agencies responsible for environmental management by the government will go a long way in ensuring water quality management and enforcement of trans-boundary movement of hazardous waste.

6.6 Stringent Penalty

Stiffer sanctions are necessary to curb environmental infractions and to deter prospective offenders or environmental polluters. The amount to be paid by offenders should be commensurate with the offence committed.

7. Conclusion

This paper has demonstrated that the core issue in water quality management in Africa, particularly Nigeria, is not the absence of laws but the effectiveness of their implementation. By ex-raying existing legal frameworks, it is clear that the way forward lies in strengthening enforcement, improving data systems, enhancing stakeholder engagement, and integrating education and awareness into governance. Water quality management must move beyond legal aspiration to a lived reality, to ensure that Africa's rivers, aquifers, and wetlands are protected for present and future generations. This can only be achieved through synergy between strong laws, transparent institutions, and informed citizens. With these, Nigeria and Africa can achieve sustainable water management and fulfill the vision of clean water for all.