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## **Explaining the State of Environmental Enforcement in Nigeria’s Niger Delta Region: some Theoretical Consideration**

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### **ABSTRACT**

*There are several theories that elucidate the current condition of environmental enforcement and laws in Nigeria, as well as the subsequent deterioration of the Niger Delta ecosystem by oil multinational corporations. These theories are not exclusive as they relate with other theories to advance a holistic view. This study examines three theories in connection to the continuous and unresolved environmental challenges confronting the Niger Delta area in Nigeria. These are the dependency theory, the rentier state theory, and the regulatory capture theory. Anchored on historical research design and the use of secondary data, the findings indicated that Nigeria's enforcement programmes had been seriously affected by its total reliance on oil proceeds and the subsequent capture of its regulatory agencies by oil multinationals. The paper discovered that Nigeria's oil dependency, rent-seeking behavior, and corruption had been the greatest obstacle to the enforcement regime in the country. This situation led to a condition where though the laws exist to address environmental injustice, the various governments, especially at the centre, have made sure that they are not applied stringently as it would mean a reduced income on a resource that has been defining the country's economy trajectory for over 60 years. The paper, therefore, recommended holistic approaches that are measurable and achievable to resolving the problem and dilemma of the Niger Delta region of Nigeria.*

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## **1. Introduction**

Environmental scientists, social scientists, and environmental activists, as well as other interested scholars in natural and human environmental issues, have continually expressed concern about the state of environmental regulations in Nigeria and the Niger Delta. Studies have indicated that oil spills, loss of mangrove forests, depletion of fish population, natural gas flaring, biological and environmental remediation, and flooding, among others, are regular features in the list of environmental challenges in the Niger Delta (Ayanlade & Proske, 2015). Some Multinational Corporations (MNCs) operating in the region have been accused severally of contributing to the menace without any substantial solution for years, leading to threats to the livelihood of communities by the operations of Oil Multinational Corporations (OMNCs) in the oil-producing areas of the Niger Delta (The Daily Independent, 2019). Thus, the rate of ecological disasters occasioned by the activities of big corporations has become the focus of world leaders in recent times. Since 1972 in Stockholm, when the first international conference on the environment was held, several international conferences have taken place either to consolidate the gains of previous gatherings or to draw more roadmaps to achieve sustainable development goals.

The fact remains that humans have not been as threatened as they are now, especially with the rate of ozone depletion, global warming, climate change, and rising sea levels. Hence, the concept of environmental security is aggressively challenging for space in human security discourse because, in recent times, humans have been at the receiving end of environmental discontinuities on many fronts. Nigeria's challenge of regulating the oil industry activities while heavily relying on its proceeds for industrial and developmental growth has exposed the Nigerian governing elites to profound contradictions. These have affected their ability to regulate the oil companies effectively and bring them within compliance with laws. As an illustration, in 2019, the oil sector contributed 95% of the nation's foreign exchange profits and more than 80% of its projected budget. This means that the oil sector wholly drives the country even though its contribution to the overall gross domestic product (GDP) is measurable (in the same period, the oil and gas sector contributed just 5.8 percent to Nigeria's real GDP). One reason given for this unbalanced state is the lack of development seen in other sectors, which has not been developed to an enviable standard that could drive the country's exports (Nwuke, 2021).

Nine states make up the oil-rich Niger Delta region, which provides the majority of Nigeria's oil. These states are Delta, Edo, Bayelsa, Rivers, Cross River, Akwa Ibom, Abia, Imo, and Ondo. Four states (Akwa Ibom, Delta, Rivers, and Bayelsa, all located in Nigeria's south-south region) produced 80 percent of Nigeria's total crude oil output in 2019<sup>1</sup>. Three of these states (Delta, Rivers, and Bayelsa) were also heavily impacted by incessant oil spills, which have continued to devastate aquatic lives and arable lands all over the Niger Delta region, irrespective of the availability of environmental statutes that criminalises actions that degrade the environment.

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<sup>1</sup> <https://nigerianqueries.com/oil-producing-states-in-nigeria/>

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About 77 percent of Nigeria's total oil spills between 2019 and May 2021 were recorded in these three states alone. The Niger Delta region, within this period, recorded 881 oil spills which resulted in the loss of 43000 barrels spilled into the environment (Akinpelu, 2021). This excluded the Nembe oil spill in Bayelsa State in late 2021, affecting about 24 communities with an estimated spill of over 2 million barrels of oil (Nwafor, 2022). One cannot begin to imagine the adverse effects oil spills, for instance, have on these communities that depend on surrounding waters to survive since most of the inhabitants are farmers and fishermen. Expectedly, therefore, the pollution of their waters and farmlands will result in hunger and poverty, hence their outcry of neglect following the disaster (Nwafor, 2022).

Gas flaring is another common practice of oil multinationals in the region. Nigeria loses remarkably due to the incessant flaring of it. However, if the gas were utilized correctly, it would benefit its citizens economically. The incessant gas flaring in the region has even further exposed the government's half-hearted efforts to curb it. It has seriously questioned government commitment to many of its environmental regulations, which look overarching but fall short of addressing pollution in the country. Hence, it is argued that there is a deliberate effort by the government to sabotage its efforts and laws due to the critical place oil occupies in Nigeria's political economy. However, suppose pollution seriously threatens a government's commitment to sustainable development. In that case, addressing its menace will be in the government's best interest, especially since the country is committed to achieving the Sustainable Development Goals.

However, this is not the situation in Nigeria, where oil firms continue to harm the environment, endanger people's means of subsistence, and inflict immense pain on the people who live in the Niger Delta. Therefore, understanding the reason for the lack of an adequate enforcement regime is the crux of this paper. The paper intends to do this by analysing some theories and how they can help us understand the state of environmental enforcement in the country and what can be done to address the situation. Three theories will be considered. They are the dependency theory, rentier-state theory, and regulatory capture agency theory. It is, however, pertinent to start with a conceptual understanding of environmental enforcement. The paper is divided into sections, including an introduction, literature reviews, methodology, results, discussion, and conclusions.

## **2. Literature Review**

### **2.1 Environmental Enforcement**

Environmental enforcement connotes steps taken by national and state governments to enforce environmental laws, statutes, and regulations to address violations against these laws and ensure compliance with their provisions (Edo, Clark & Etemike, 2023). While a good step in the right direction, the enactment and availability of environmental laws do not entail automatic adherence to the laws or ensuring compliance with environmental statutes. Since enforcement is unquestionably the most reliable way to ensure compliance, the appropriate authorities must deliberately enforce environmental legislation (Edo, 2012). Indeed, without environmental enforcement, states cannot monitor compliance claims by giant corporations that often cut corners in pursuit of profits. An effective enforcement

programme is also a display of good governance on the part of governments as they respond to the disastrous impact of oil companies' activities, which often results in negative environmental externalities. An excellent environmental enforcement programme should be flexible enough to "account for the changing nature of environmental problems...and the level of public concern about environmental issues" (Paddock, p .67). Effectively pursued, environmental enforcement benefits communities and companies who adhere to its tenets.

Wasserman (1992) examined four ways environmental enforcement benefits the community. These are: it protects public health and environmental quality; it increases the legitimacy of environmental regulations; it gives assurances of equity; and lastly, it lowers expenses and liabilities.

**Protects public health and environmental quality.** Every environmental policy, theoretically speaking, has twin goals: to ensure the quality of the environment and, by so doing, to protect the public from hazardous substances. These two primary goals of environmental laws gravitate towards achieving sustainable development, which has been the guiding principle of the latter part of the 21<sup>st</sup>-century environmental laws. Enforcing environmental standards helps in the actualisation of these goals. These basic environmental requirements have a greater chance of getting results if environmental enforcement is credibly pursued.

**Increasing the legitimacy of environmental regulations.** With enforcement, environmental laws/requirements will gain credibility. Even institutions saddled with ensuring environmental quality will also lose their credibility. According to Wasserman (1994), credibility "means that society perceives its environmental requirements and the institutions that implement them as strong and effective" (p. 18). A weak institution does not in any way encourage compliance. Once an entity perceives institutional weakness, complying with the law becomes challenging as they will come to believe that they can get away with violations. Therefore, a credible enforcement program encourages firms to comply with environmental policies.

**Assurances of equity.** Some regulated entities have imbibed a corporate culture that enables them to obey the law voluntarily. These demand less enforcement as they perceive it is in their best interest to obey environmental laws. However, there are some habitual violators. If enforcement is lacking or not credible, it calls into question the law itself. Indeed, if there is no enforcement, some facilities gain or benefit at the expense of those who willingly obey. Enforcement, therefore, ensures that there is fairness in the system and that it is economically costly to violate environmental laws than to comply.

**Reduction of costs and liability.** Compliance has excellent benefits; one of them is that it<sup>76</sup> creates a healthier environment. The cost of violation to public health is drastically reduced, which impacts medical expenses as they are also reduced. Moreover, a clean environment means the cost of cleaning up a degraded environment is significantly reduced. The recent cost of cleaning up the Ogoni and

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Bayelsa environment in Southern Nigeria after decades of oil pollution is a pointer to the disastrous effect of non-compliance<sup>2</sup>.

While engaging in non-compliant actions may sound economically beneficial in the short term (compliance with environmental laws might seem costly in the short term), compliance has significant long-term gains for those who comply and society itself. The Industry profits from compliance because it lowers liability and long-term cleanup expenses. If complying with regulations entails recycling valuable resources or improving process efficiency, the Industry can also experience direct financial gains. Instead of investing in costly pollution control and monitoring technology, a robust enforcement programme may incentivise facilities to comply by reducing pollution and minimising waste.

Another significant aspect of an effective enforcement and compliance program advanced by this study is that it is a sure harbinger of environmental justice. According to Ejumudo (2011), environmental justice addresses the effects of industrial activities and their negative impacts, primarily as it affects minorities to engender environmental equality (p. 46). This concern revolves around the notion that minorities of certain races and ethnic groups and, of course, low-income countries, among others, are disproportionately exposed to environmental degradation (Field and Field 2009, p. 186). For instance, in the Niger Delta region of Nigeria, minority groups have suffered from the negative externalities of oil production, which directly affects their health and their source of livelihood. The results have been a power struggle over the region's resources and social activism between these minority groups against the federal government (Sanubi, 2011; Jike, 2004). Therefore, the government seeks to address environmental injustice through appropriate environmental policies by enforcing relevant environmental laws.

However, despite these apparent benefits, the state of environmental enforcement in Nigeria could be more assertive and needs to be more robust. The exploration of oil in the Niger Delta area of Nigeria has not followed best practices as obtainable in advanced economies. The country's lukewarm approach to environmental law has endangered the region's environment, causing unparalleled poverty amid the loss of occupation. To understand the reason for the weakness of Nigeria's environmental enforcement regime, we explore some theories to explain environmental law enforcement in Nigeria.

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<sup>2</sup> The cost of cleaning up the Ogoni environment impacted by oil spillage for years will run into billions of dollars with a recommended initial setup of 1 billion USD for 'The Environmental Restoration Fund for Ogoniland (United Nations Environmental Programme, 2012)). Also, a commission set up with international involvement to look at the impact of oil exploration on Bayelsa State lands and waters recommended that a full remediation will cost up to 12 billion USD over 12 years to "restore the environmental and public health damage caused by oil and gas and to lay the foundations for Bayelsa's just transition towards renewable energy and opportunities for alternative livelihoods" (The Bayelsa State Oil & Environmental Commission, 2023)

### **3. Methodology**

This paper is mainly historical and qualitative and primarily employs secondary data for its analysis. Secondary sources were obtained from published relevant articles, books, internet sources, libraries, and grey literature. The historical design enabled a systematic review to recapture complex nuances to account for past ideas and how they continue to shape and reshape present realities. Its ability to combine the political, economic, social, and other aspects of society in explaining the past and present was instrumental in utilizing this method in the study.

### **4. Theoretical Issues**

The question of inequalities, the North-South divide, the structural relationship between what has come to be known as the core vs. the periphery countries, and the developmental gap between the countries in each divide have concerned international political economy scholars, especially from Third World extraction. The 1950s produced a radical break from the neoclassical theories in explaining the bases of development in both the advanced and developing world. As a reaction to what they perceived as the inadequacy of these theories in explaining the backwardness of Third World Countries, dependency theorists offered what they see as a more viable explanation of why countries of Latin America, Africa, and Asia are still lagging despite efforts towards development. Modernization theory of development states, among other things, that development is an evolutionary process (Rostow, 1960) and that what explains the lack of development in third-world nations is the lack of industrialization and the absence of technology. The logical implication of the above reasoning is that the West or developed economies can help these countries develop by transferring technologies to them. However, given the entrenched poverty and continued backwardness of Third World Nations, there was a need to look beyond what some scholars called the euro-centric and patronising theory of modernisation. Dependency became an influential theory emphasising structural dependency as the basis of third-world underdevelopment.

Dependency theory is generally a reaction against the evolutionary theory of development. This theory, in its various applications, was, according to Friedmann and Wayne (1977), evident in such works as Rostow (1960) on the economy, Almond and Coleman (1960) on the political system, and Parsons (1966) on the structure of the social relationship. The issue of development and underdevelopment, when examined through the lens of this prevailing scholarship, is seen as a consequence of the problems or contradictions in the society itself. Attributes like ethnicity and religious practices are often pointed out as the causes of underdevelopment. While there are several variants of dependency theory, radical dependency theorists have been more and generally influential in its development as they combine elements of Prebisch's (1950) structuralism, which revolves around the notion of internal determinants, with views that focus on external determinants. Structural dependency, though developed along themes focusing on the relationship between core-periphery dichotomies, has nevertheless anchored its explanation on the inability of the periphery nations to venture outside their primary production, which subjects them to unfavourable trade shocks.

Succinctly put, the argument revolves around the notion that former colonised colonies have been structurally transformed to produce raw materials and cash

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crops, produced at low cost, to meet the fledging industries of the advanced economies. This has excellent effects on public policies and decision-making. Public policies were thus in favour of activities that enhanced or concretised the exploitation of primary produce as it became the only source of revenue for the petite bourgeoisie that arose following the granting of political independence. Logically, this led to a prescription that this disadvantaged state can only be corrected by a conscious reform of the underdeveloped countries' economic structure by establishing industries and relying less on primary produce.

In the mid-sixties and seventies, a more radical version of dependency arose with significant deviation from structuralism. Although the structural approach suggested altering an economy's internal structure to lessen its disadvantage in the global economy and explained underdevelopment primarily in terms of internal barriers to economic growth, Subsequent dependency theorists contended that the industrial capitalist countries that comprised the centre's presence and policies were what externally caused underdevelopment. Many scholars expanded this view in their bid to explain Third World dependency. Amin (1973, 1974, 1976), Rodney (1972), and Offing (1982) have used the theory to explain Africa's continued dependency and illusive development drive. Dos Santos's (1970) conceptualisation of dependency should be understood in light of the above terminology differences. Dos Santos (1970) sees dependency as

The situation in which the economy of certain countries is conditioned by the development and expansion of another economy to which the former is subjected [and] a historical condition that shapes a specific structure of the world economy such that it favours some countries to the detriment of others, and limits the development possibilities of the subordinate economies" (Dos Santos, 1970, p. 231)

In analysing this position, Dos Santos observed three ways this entrenched dependency is carried out. According to him, colonial dependence, financial-industrial dependence, and dependency as perpetuated by the emergence of Multinational Corporations in satellite nations have led to a situation where the development of the metropolis has simultaneously meant the underdevelopment of Third World Nations (Dos Santos, 1973; Rodney, 1972).

### **4.1 Dependency Theory, the Rentier State and Environmental Law Enforcement in Nigeria**

As dependency theory grew in popularity, it was adopted by African scholars to explain the lack of development in the continent. Walter Rodney's book "How Europe Underdeveloped Africa" is perhaps one of the most widely cited dependency texts in underdevelopment studies. Rodney (1972) has been directly asserting that the concept of underdevelopment only begins to make sense as it represents a specific kind of exploitation, the exploitation of one nation by another. For this reason, a comprehensive understanding of Africa's development must first consider the historical ties to the advanced nations during the 400 years of the slave trade and the active colonial era that started in the 19th century. This relationship led Africans to depend on the extractive sectors, foreign investors, and expatriates to explore and exploit these natural resources. In Nigeria, this dependency was evident in the

exploration of oil and gas in the Niger Delta region, where the key players were foreign multinationals like Shell, Chevron, and others, and with their unique position, have engaged in the destruction of the ecosystem of the region. The role played by modern-day agents of capitalism like big multinational corporations (MNCs) has factored significantly in dependency theory. In the early stages, these multinational companies' activities were geared towards assessing the internal market of developing countries as they looked for new markets to invest in. However, their dominance in developing nations advanced through their capital-intensive operation, which saw an unequal partnership between them and the financially vulnerable national elite class. The state was thus used as a vehicle to advance the interest of this class and the exploitation of natural resources as the elite depended more and more on economic rents (Graf, 1988).

Ake (1976) had observed this subjective role of the state when he wrote,

In Africa, much of the exploitation is done not by individual capitalists but by the state acting as an influential entrepreneur, establishing businesses, hiring wage labour, and ruthlessly extracting surplus value from its subjects. Many of those who exploit the proletariat do not themselves own the means of production, but they control the power of the state, which is used to control the means of production and to carry out exploitation (p. 3)

This was seen in the partnership deal between the Nigerian State and oil multinational corporations in the Niger Delta region. The use of the state for exploitative purposes by the Nigerian political elites was an inevitable outcome due to how it has been created. According to Graf (1988), the fractured nature of the Nigerian elite class was a deliberate ploy under colonialism as it prevented them from holding a holistic view of the colonial administration. Therefore, unlike its European counterparts, the African faulty elite class needed help to fulfill the historical role of developing the productive forces and galvanizing the state as the surest means to capital accumulation. Deprived of the means of production and bereft of the technology needed to conquer nature, African elites depended even more forcefully on agents of foreign exploitation, the multinational corporations. With the discovery of oil and the role it would later play in the nation's economy, oil multinationals were given unrestricted access to scout and exploit oil. The relationship, therefore, between the oil multinationals and the fragile African states find commonality in their exploitation of the commonwealth of the people. Foreign private oil companies in Nigeria are driven by profits rather than any respect for the environment.

On the other hand, the state, under the management of the non-productive elite class, depends on the oil companies to advance their primitive interest in capital accumulation. Oil companies are not pretentious about this role, and we see this expression in the way the Niger Delta resources are exploited without due regard to the health of the people. The explanation here is that the over-dependence on oil has weakened the federal government's position in its decision-making, and legislations



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aimed at addressing ecological problems in the region that emanate from these oil companies' oil activities have failed woefully because of this dependency.<sup>3</sup>

The last sixty years have witnessed a massive shift from agriculture to an economy largely dependent on oil. While it is true that colonialism was a brief period in Africa's history, it completely reordered social relations and economic activities in the continent. In this sense, an understanding of the birth of the Nigerian state in its nascent form can be connected to mineral abundance and the quest to control these resources by foreign powers. When political sovereignty changed hands following the actualization of political independence from the British colonial government, it did not result in the nationalisation of industries that were vital to the financial success of an independent Nigerian nation. Instead, it follows the same pattern of rent-seeking evident in colonial relations. It was, therefore, understandable that under such an arrangement, foreign oil companies determine, at least in a technical sense, the nature of oil production in the country. The federal government thus depends on oil rents in their primitive capital accumulation drive.

Given the significant role oil started to play in the early twentieth century and its discovery in Nigeria in 1956, the country was courted by international capital. Undoubtedly, it occupies a significant place in international economic relations during this period. Nigeria's economic growth since the country was granted independence is due to oil revenue, which has been the mainstay of its economy. However, rather than a blessing, oil wealth in Nigeria, as in another country with abundance, has led to what is now known as the "natural resource curse problem." This is because "the over-dependence on oil has displaced the more stable and sustainable internally generated revenue from taxes, leading government officials to escape public control and accountability of their policies and budgetary spending, as checks and balances that taxation system provides diminish" (Edo, 2012, p. 56). Also, the agricultural and manufacturing sectors have been seriously affected as, compared to oil, these sectors have remained mainly uncompetitive and non-exportable. The bottom line is that given the revenue from oil, the government has displayed a lukewarm attitude toward engineering creativity in other sectors of the economy due to their dependence on petro-dollars.

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<sup>3</sup> The discovery of oil in 1956 at Oloibiri, a town in present-day Bayelsa State, gradually displaced agriculture as Nigeria's foreign exchange income and the mainstay of her economy. Before its displacement, agricultural produce like cocoa, kenel, and palm oil was significant as it continues to dictate Nigeria's international economic relations. For example, in 1960, agriculture accounted for 97.9% of Nigeria's exports, while oil was a meager 2.1%. 1965, it was 74.1% as oil exports grew to 29.5%. In 1970, it was 42.7%, while oil exports grew to 57.3. However, by 1975, agriculture had been displaced as it accounted for a mere 7.5%, while in this same period, oil accounted for 92.5% of Nigeria's foreign income (Falola & Heaton, 2008). To put it in monetary terms, between the years 1973 and 1981, foreign earnings from agriculture fell from 1.5 billion USD to 0.3 billion USD (see UNEP report on Ogoni land, 2012, p. 20; CBN, 2008, 2015)

The gestation period of other sectors like agriculture discourages the Nigerian government from heavily investing in them as the money gotten from oil is instantaneous and easily acquired (see Jike, 2004). As oil grows in importance, with immense implications on government budgetary plans, regulating the oil industry and bringing it into compliance with environmental laws become a challenging exercise for state managers. Environmental enforcement thus becomes just a passing phrase in government circles even though the benefits, if pursued, are long-lasting and a sure route to achieving sustainable development. This also explains that in spite of overarching laws made by the Nigerian government, there has yet to be enough to effect radical changes in the oil industry.

One of the offshoots of dependency theory, especially as it explains oil exploration and mineral extraction, is the rent-seeking state. On this note, the dependency theory helps us highlight the rent-seeking behaviour of a dependent economy like Nigeria that depends solely on oil exploration for its foreign exchange earnings while disregarding the viability of other sectors in explaining the weak nature of its environmental enforcement programmes. States that consistently receive a sizable amount of external economic rent are considered rentier states, according to Mahdavy (1970), who first proposed the concept. According to Yates (1996), in this situation, "the effects of the oil sector are significant, and yet the rest of the economy is not of secondary importance." (pp. 11-12). As a result, Frynas (2000) observed in his analysis of the unique circumstances surrounding Nigeria that the country's government primarily depends on oil to collect taxes and rents from oil corporations rather than obtaining budgetary projections from productive activities. He also noted that Nigeria's political economy is chiefly driven in favour of these oil companies, resulting in a kind of business venture between the government and oil companies.

Dependence on oil and the emanating oil rents has fuelled elite corruption and class and ethnic struggles in the country. It has been increasingly utilised to support urban centres in Abuja, and Lagos and 'lined' the pockets of Nigeria's fortuitous elites (Gray, 1988; Edo, Etemike and Clark, 2022). The regions where these oil rents are gotten from have paradoxically suffered neglect in all imaginable forms. More importantly, oil rent dependence, which is a consequence of the country's dependence on the extractive sector and a proposition germane to this paper, has affected the political will of the government to enforce its environmental standards against the unwholesome practices of gas flaring and oil spillage, thereby jeopardising the peoples' sources of livelihood, health, and economic activities.

Due to its reliance on oil rents, the federal government's interactions with foreign oil companies have been more robust and subservient. Agbonifo (2002), therefore, argued that although there have been instances in which the government has expressed a desire to renounce environmental policies imposed by colonialism, primarily due to pressure from civil society, the state has not been able to maintain its political will or put such a policy into practice. The reason is that the oil companies have consistently blackmailed the state with the prospect of reduced revenue and other implications if any upward review of the operational environment is carried out. This has affected the country's environmental enforcement and compliance program so much.

## 4.2 Captured Agencies and Weak Enforcement Practices

Another observed scenario as it relates to the country's dependency situation is the fact that oil companies have been able to use their leverage, both technical and financial weight on the Nigerian government to their advantage as agencies meant to regulate their activities are further captured and believed to work for the interest of the regulated group rather than the public interest. The basic notion in a regulatory capture scenario is that the regulated Industry or group can capture agencies that regulate their activities in ways such that regulatory policies or decisions are reflections of the interest of the regulated group (Huntington, 1952; Kohlmeier, 1969). Bernstein (1955), a core proponent of this view, believes that one way in which such capture occurs is due to the gap that exists between public interest, which dies down with the creation of a regulatory agency believing that such creation automatically addresses their problem and a powerful minority, regulated group who continues to resist any form of regulation as the public losses interest.

The capture theory of regulation is thus a reaction against the public interest theory, which posits that government policies are geared towards the maximisation of the public interest. However, the question of how these agencies are being captured is contentious. These can take place in many forms and ways. One such way is when the government depends so much on the outcome of an activity being undertaken by the regulated group, which in the case of Nigeria is the dependence on the oil sector to neglect other viable sectors. Lack of technology, adequate personnel, and corruption are the basis for capture. Etzioni (2009) states, "Regulatory capture often takes place without altering the regulations on the books by weakening their enforcement." (p. 45). Nigeria's dependence on oil has made it possible for the government to alter its position on the law and acquiesce to the excuses of oil multinationals. While Nigeria's environmental laws are clear and its goals well stated, their enforcement has been seriously weakened by its oil dependence. Oil multinationals have thus been able to use this leverage on the government to capture environmental agencies and the government (Agbonifo, 2002).

The capture occurs when a regulatory agency works for regulated groups or makes more favorable decisions for a regulated group instead of working for the public interest. The net result is under-enforcement. Regulatory capture comes in different forms. It could be in the form of these big companies paying off enforcement officials so that they look the other way. Another way this can occur is when these companies get involved clandestinely in politics by funding candidates or channeling funds to politicians overseeing enforcement officials' appointments. Also, the overreliance on the supervised community for information about what they are being supervised can lead to capture (Olujobi, Oyewunmi & Oyewunmi, 2018). Nigeria's environmental agencies often need more finance, skilled and adequate staff, and technical input. Hence, it is not surprising that it is more often the case that they rely heavily on pollution data from oil operating companies in Nigeria.

Government regulatory bodies' reliance on oil firms will be reduced by self-financing or government funding explicitly allocated for these purposes. The likelihood of Nigerian oil corporations adhering to pertinent environmental rules and laws is higher when they have confidence in the ability of regulated bodies to carry out their duties. Government regulatory bodies' reliance on oil firms will be

reduced by self-financing or government funding explicitly allocated for these purposes. The likelihood of Nigerian oil corporations adhering to pertinent environmental rules and laws is higher when they have confidence in the ability of regulated bodies to carry out their duties. However, they have managed to take advantage of these shortcomings in the government to further their agendas, disregarding the environmental damage that results from their acts. According to Adegoye (1994), oil multinational corporations can circumvent appointed regulators and use their political ties to get favourable outcomes, all thanks to their unfettered access to the ruling elites.

In Nigeria, ineffective institutions have hampered the success of enforcement and compliance initiatives. Compared to the oil corporations they are supposed to regulate; these organisations are feeble. As a result, they are hindered in their ability to carry out their mandates since they need more accountability and responsibility. In such circumstances, they become vulnerable to capture. Intense lobbying by the regulated community to persuade enforcement agencies to adopt the viewpoints of the industries they are regulating may be the more likely cause of agency capture than actual corruption since agency capture happens when the regulated entity begins to control the regulators who are supposed to enforce government regulations. For instance, mandates to stop gas flaring have not succeeded in Nigeria primarily because foreign oil companies have successfully lobbied the government to change the deadlines, giving the impression that it is impossible to complete the task within the allotted time due to the significant financial and technological investment. Because it relied on oil money, the government has been effectively pressured to follow these oil companies' directives.

However, corruption has played a significant role in regulatory capture in Nigeria, mainly as we have seen in the Niger Delta. According to Newell (2003), corruption reduces the efficacy of regulatory authorities, and weak institutions actively serve as a haven for corrupt activities. Workplace ethics violations lead to corruption. This forms the basis of Stigler's (1971) theory, which holds that although the initial purpose of regulations is to further public goods or interests, these high standards are eventually compromised in favour of the regulated' interests and preferences. Consequently, it is seen that, in the end, "corporations tend to exploit the regulations and use them as a tool to attain their desired profits" (Noah, 2021, p. 7). An agency that regulates becomes vulnerable to capture if it is not financially, politically, or operationally motivated. In a study by Edo (2023), a respondent captured this agency-undermining activity as follows:

The oil companies have plenty of money to throw around, which is why those who are enforcers of the law are always happy when they have direct access to these oil companies. One can see it in the way they live and the mansions many of them built. So, taking bribes to look the other way is standard practice, just as these companies also target those who believe in the community, which can give them problems. That is why it is difficult for the laws to be enforced in the letter. Given the rate oil money is shared among those who have access to the oil companies, it is a dream for members of this community that they have relatives who work in

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the oil sectors and the government, especially those who have oversight in the oil industry, (p. 161)

### **5. Towards an Effective Environmental Enforcement Programme**

Under these systemic traps, ensuring effective enforcement of environmental standards is challenging. The continued dependence on crude oil exports for Nigeria's budgetary plans, the unholy alliance and partnership that exists between oil companies and environmental regulatory agencies, which has led to regulatory capture by these oil companies and the rentier state status of the country which has no doubt been a reason for the lack of development of other viable sectors, have all contributed to the deepening crisis of Nigeria environmental enforcement program. Knowing the cause for the lack of conformity with a country's environmental laws is undoubtedly the first step toward addressing the issue, which is precisely the focus of this paper.

It is instructive to note that the issue of non-compliance is not solely the problem of developing countries. In advanced economies like the United States of America, there is widespread non-conformity with environmental laws. They have, however, been able to address violations successfully due to proactive provisions in their environmental laws. One such provision protects those who report a company's non-compliance with the law. The whistle-blower provision has led to significant success as it has empowered workers who love a clean environment to come forward without fear of being fired from their jobs. It has also led to conformity with the law by companies.

However, Nigeria must meet its sustainable development goals, which include ensuring a clean environment and stamping out poverty. In that case, attention must be given to the activities of the oil industry as they project the highest contamination of the ecosystem. One reason often advanced for the lack of enforcement in the oil industry is the government's need for more political will. For instance, Nigeria has several environmental laws addressing various aspects of the environment, ranging from hazardous waste, oil pollution, biodiversity protection, fauna and flora, and gas flaring, among others (See, Edo, Etemike and Clark, 2022). However, due to the theoretical reasons given above, the government has yet to be able to follow through with the stringent sanctions for violations. Considering the gains from unrestricted oil production the political elites derive, following their laws will adversely affect their primitive capital accumulation.

Nonetheless, the effect of this is that it threatens not only the environment but also the livelihoods of her citizens and, by implication, the social cohesion in the country. The oil industry does not bring about massive employment compared to other sectors like agriculture and manufacturing, as it is primarily a skill-oriented industry targeting trained personnel.<sup>4</sup> To address this deficiency and enhance its political will, efforts should be made to address the shortcomings in other sectors of the

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<sup>4</sup> It is indeed worth noting that while oil contributes massively to Nigeria's external income, it is the non-oil sector that offers massive employment, contributing approximately about 93 percent of her Gross Domestic Product in 2020 (Chinery & George-Ikoli, 2022)

economy, like agriculture, manufacturing, and technological output. Put succinctly, there is an urgent need to move away from a Petro-dollar and mono-product economy and diversify towards other sectors. The Nigerian government must move away from an oil-export-dependent economy that has subjected the state to cheap blackmail from oil multinationals. In many quarters, it is believed that Nigeria's oil dependence has empowered oil companies to disregard the environment, as their double standards have often been called out (Ogunyemi, 2021). Less dependency on oil will thus enhance the state's negotiating power as they will be able to address the deficiency in the oil sector from a position of power rather than fear. The development of other sectors of the economy will reduce Nigeria's dependency on oil rents and, by implication, reduce its dependence on these foreign oil companies.

Regulatory agencies often need help with their capacity to be efficient, effective, and accountable to the society they serve. Nigeria's environmental laws sometimes suffer from duplicating functions, which has not made it easier for regulatory agencies, which are found wanting during environmental disasters. Also, there is a need for more personnel, knowledge, equipment, logistics, and updated technology, which many regulatory agencies need to improve. This has made them readily susceptible to capture from big oil companies who employ their vast resources to circumvent the law by appealing directly to regulators' lack of capacity. To address this limitation, it is essential and urgent that the Nigerian government not only provide the necessary tools that regulatory agencies need to work with but also ensure that the right people with adequate training are recruited.

Regulated entities are likely to default if they perceive that regulators have limited knowledge of their activities. A lack of knowledge of how the oil industry operates has led to overdependence on regulated oil companies in reporting their activities or their impact on the environment. This has been one of the challenges of environmental enforcement in the country. Due to overdependence on oil spill reports from offenders, oil spill statistics and incidents have often been met with scepticism as these reports lack uniformity.

Environmental citizen's education, interactions with stakeholders, and community involvement and interactions should be explored by the government in the environmental enforcement programme. Ecological disasters affect even those who depend on the environment for life support. Logically, they should be included in efforts to combat its negative externalities. Lack of awareness of the need to report environmental disasters has led to deadly incidents, as we see in the Jesse fire of 2001 in Delta State, which killed thousands and further degradation of the environment. Involving communities and stakeholders in environmental enforcement programmes also has the benefit of redirecting the focus of oil companies on the need to address environmental discontinuities when and before they occur.

Suffice it to say that enhancing environmental enforcement in Nigeria's Niger Delta region will be a hurricane task. As long as oil continues to drive the country's economy, and in the absence of sound technology as obtainable in other developed climes, the Niger Delta region and its people will continue to be at the receiving end of ecological disaster. However, this can be addressed, and the starting point is for

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the government to look at the viability of other sectors and enhance its negotiating power with oil companies.

### **6. Conclusion**

There are more severe consequences to breaking environmental rules than just the money. The environment and those who suffer from environmental degradation may be the targets of its most significant effects. That said, the biggest challenge to Nigeria's enforcement regime has come from its reliance on oil, its corrupt practices, and its rent-seeking behaviour. Due to this, even though there are laws in place to address environmental injustice, the governments, particularly those in the centre, have ensured that they are not applied because doing so would result in lower revenue from a resource that has defined the course of the nation's economy for more than 60 years. The government will be positioned to vigorously enforce the nation's environmental laws if they diversify the economy away from oil if environmental law enforcement of the oil business is to be effective.

The paper, therefore, recommends that governments, both national and subnational, should cease making empty promises about diversifying Nigeria's economic resource base and instead implement comprehensive, quantifiable, and realistic approaches by policymakers and other stakeholders to address the issue and conundrum facing the country's Niger Delta region. In order to ensure the sustainability of local resources, it is also necessary for local, state, federal, and international actors to collaborate, be transparent, and actively engage the oil-producing communities.

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