

Policy Paper

THE APPLICABILITY OF THE RULE IN RYLANDS V. FLETCHER TO PETROLEUM ACTIVITIES IN NIGERIA

ABSTRACT: This investigation examines the Applicability of the Rule in *Rylands v. Fletcher* to Petroleum activities in Nigeria. For many years the Nigerian Government had laid emphasis on the need for exploitation of oil for developmental purposes without making adequate provisions for the negative impact of these petroleum activities to the host communities. The Rule in *Rylands v. Fletcher* is one of the principles at common law, which is to the effect that, a person who for his own purpose brings on his land, collects and keeps there anything likely to do mischief, keeps it at his own peril if it escapes and causes harm to another person, is *prima facie* answerable to all the likely damages which is the natural consequence of its escape. The devastating effect of petroleum pollution on the land, water and air which forms the eco-system is not novel to our environment. This work will analyze the applicability of the Rule in *Rylands v. Fletcher* to petroleum activities in Nigeria with the aim of reaching an appropriate compensation payable by the multinational companies at the instance of pollution done to the host communities in the course of their activities in Nigeria.

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KEYWORDS: Petroleum activities, pollution, damages, compensation, oil spillage, multinational oil companies.

1. Introduction

Petroleum exploration and production in Nigeria and the export of oil and gas resources by the petroleum sector has substantially improved the nation's economy over the past five decades. However, petroleum activities have significant impacts on the atmosphere [9]. These include the soils and sediments, ground surface, water marine environment and the terrestrial eco-systems in the Niger Delta [17]. The cause of environmental pollution which is adverse to human health, ranges from discharge from petroleum hydrocarbon derived from waste streams. This results in the degradation of the oil producing areas [9]. Many approaches have been developed for the management of environmental impacts of petroleum production [11]. Several activities and environmental laws have been institutionalized to regulate the Nigerian petroleum industry [5], [11]. However, the existing statutory laws and regulations for environmental protection appear to be grossly inadequate and some of the multinational oil companies operating in the Niger Delta region have failed to adopt sustainable practices to prevent environmental pollution [12].

Quite often, most communities where petroleum is drilled and produced have had to bear lots of environmental ravages [1], [10]. Nigeria is not an exception to this phenomenon. Indeed, most of these communities are to be found in the Niger Delta Region of Nigeria, which altogether produces over 90% of the nation's petroleum [1], [9]. It is not uncommon to witness

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41 incidents of oil spillage either due to equipment failure or faulty pipelines. An oil spill can over
42 run farmlands, crops, economic trees, streams, lakes, creeks, fish ponds and even residential
43 buildings. Sometimes, it may not even be crude oil, but mud or silt deposited on adjoining land
44 or stream during initial exploration activities [1],[20]. The result of such spillages and mudslides
45 is that large portions of land, particularly farm lands, are left with either little or no economic
46 value or permanently destroyed. In addition, fishing rights or access to same are equally
47 destroyed, either partially or permanently as rivers are left polluted or rendered stagnant [1],
48 [20]. For inhabitants of these areas, it has become one huge case of environmental nightmare.

49 Human beings suffer from pollution which results from industrial activities like gas
50 flaring from oil companies, discharge of hazardous waste etc [35]. The above incidents have led
51 to strained relations between the host communities and the multinational oil companies, as
52 individuals and communities have had to resort to litigation to obtain compensation. This work
53 seeks to examine the common law Rule of strict liability as was laid down by Blackburn J. in the
54 case of Rylands v. Fletcher [32].

55 The notion of petroleum activities in Nigeria rightly brings to mind, the negative impact
56 associated with it such as pollution with regards to its deleterious effect on the environment [9].

57 The pollution posed, ranges from biological damage, physiological (pathological) effect on the
58 biota (both plants and animals) and a broad range of ecological changes [2]. The problem can
59 only be tackled through the awareness of the dangers it poses [10]. Since the environment is at
60 the core of human existence on earth, it follows that anything that affects it must affect the
61 qualities of his life [17]. This fact has received some attention by the various Nigerian
62 governments since independence although these laws have proven inadequate in the prevention
63 and control of pollution [9],[10],[11],[12]. The Rule in Rylands v. Fletcher and various statutes
64 relating to oil exploration are the means through which the law has assisted in the prevention and
65 control of petroleum pollution in the environment [16],[29]. For some years back, the oil pipeline
66 Act of 1956 was promulgated, this was subsequently amended in 1965 and 1969 respectively
67 [22]. Today, it is known as the oil pipeline Act cap. 07 Laws of the Federation of Nigeria 2004
68 [22].

69 This statute enjoins holders of oil exploration prospecting and mining license to guard
70 against injurious effects or disturbances and pay adequate compensation. Aside these laws, in
71 1972 the United Nation Conference on Human Environment at Stock-holm confirmed not only
72 the emergence of environmental pollution as a new focus of legislation [5]. This is not only to
73 avoid crisis but also emphasized the close interrelation between the environment and
74 development. Unfortunately, this is an area that has not been given adequate attention by most
75 developing countries in the world, probably due to lack of adequate knowledge of government
76 and the citizens as to the importance to a pollution free environment and other rights usually
77 regarded as sacred. For instance, right to life, right to freedom of movement etc. Injured parties
78 are faced with hardship of proof and assessment of damages when seeking to ventilate their
79 grievances and obtain compensation on issues of pollution as a result of exploration of oil by the
80 oil companies. This makes it difficult for litigants to take full advantage of the supervisory role

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81 of the court to have remedy to their rights that have been injured, which would have justified the
82 application of the legal latin maxim *ubi jus ibi remedium* (interpreted as “Where there is right there
83 is a remedy”). The question one should ask is, has these statutes done enough?
84

85 2. Aim and Objective of the Study

86 The research shows the extent to which the strict liability doctrine as enunciated in the
87 case of *Ryland v. Fletcher* can actually make impact or contribute in reducing petroleum
88 pollution in our environment. Equally, it answers the question of the relevance and sustainability
89 of the *Rylands v. Fletcher* rule in Nigeria. The work also aims at explaining the concept of
90 compensation at the instance of petroleum pollution as well as the adequacy of such
91 compensation to the individual in particular and the host communities at large especially in the
92 Niger Delta Area of Nigeria.
93

94 3. Methodology

95 This paper shall be exclusively based on secondary data. Hence, reference shall be made to case
96 law, statutes, juristic opinion, textbooks, journals and articles that are related to the topic of
97 discourse.

98 4. Nature and Scope of the study

99 The main thrust of this research will be a critical application of the Rule in *Ryland v*
100 *Fletcher* to petroleum activities in Nigeria. In cause of that, the concept of compensation will
101 also be examined. The geographical scope of the study will be limited to Nigeria especially the
102 oil producing communities in the Niger Delta region. However, the use of comparative materials
103 from compatible jurisdiction around the world may be used.
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105 5. Discussion

106 5.1 The Rule in *Rylands v. Fletcher* [32],[39].

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108 The rule as propounded by Blackburn J. while delivering the judgment of the Court of Exchequer
109 chamber. It states that:

110 “The person who for his own purpose brings on his land
111 and collects and keeps there anything likely to do mischief
112 if it escapes, must keep it at his peril and if he does not do
113 so, is prima facie answerable for all the damage which is
114 the natural consequence of its escape...”

115 In that case B, a mill-owner employed independent contractors to construct a reservoir on
116 his land to provide water for his mill. In the course of work, the contractors came upon some old
117 shafts and passages on B’s land. These old shafts and passages actually communicated with the
118 mine of A, a neighbor of B, but no one suspected this since the shafts appeared to be filled with
119 earth. The contractors did not block them up and when the reservoir was filled, the water from it
burst through the old shafts and flooded A’s mine [32],[39].

It was found as a fact that B was neither negligent nor vicariously liable for the negligence of the independent contractors. B was nevertheless held liable on the strict liability rule -propounded in that case [32],[39].

5.2 Applicability of the rule in *Rylands v. Fletcher* to petroleum activities in Nigeria

It is no doubt that Nigeria is one of the major oil producing countries with so many oil prospecting companies [9]. Petroleum operation has become dangerous because of the numerous consequences associated with its operations [10]. Even though the NOSDRA Act 2006 have rightly provided for liability on the part of oil spillers [26]. And perhaps because most International Conventions which has provided elusively for liability for any act resulting in damage are only persuasive in Nigeria until adopted by the Nigeria legislature [9],[20]. Again, the Nigerian petroleum industry rely heavily on the omnibus defense of act of a third party to escape liability for harms occasioned by oil spillages resulting in environmental, property and personal injuries. This we can assume is responsible for the very few successful actions on *Rylands v. Fletcher*.

In spite of this obstacle, the rule in *Rylands v. Fletcher* is still alive today even in Nigeria. This is because the law is the necessary condition to nib the enormity of the effect of petroleum pollution in the bud.

In *Machine Umudje&Anor v. Shell B. P Petroleum Dev. Co. Ltd* [12],[36], the plaintiff/respondent claimed damages from the defendant/appellant for the escape of waste which respondent alleged had damaged their ponds and lakes and farmlands. The findings of the learned judge were that crude-oil was previously collected in a pit burrowed by, and in the control of the appellant escaped into the adjoining lands of the respondents where it damaged the ponds and lakes in Unurnehie land and killed the fishes therein. According to Idigbe JSC;

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“...Liability on the part of an owner or the person in control of an oil-waste pit, such as the one located at Location E in the case in hand, exist under the rule in *Rylands v. Fletcher* although the escape had not occurred as a result of negligence on his part. There is no evidence of any novusactus intervention with regard to the ‘escape’ of the crude waste in Location E, nor is there ‘evidence of justification under any statutory provisions for collection of the same by the appellants who cannot therefore avail themselves of any of the exceptions to the rule aforesaid (*Rylands v. Fletcher*) for damage arising from the escape of oil-waste from the oil pit.”

The Supreme Court came to the irresistible conclusion that the appellants were liable in the following statement [7],[21],[39];

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156 “There is no doubt that the appellants would be liable under the rule in
157 *Rylands v. Fletcher* for damage resulting from their interference with the
158 natural flow of the Utefe stream and water from Ewu River into Unenurhie
159 land had learned judge found that the blockade caused by the access road
160 resulted in the flooding of Unenurhie land, together with the ponds and
161 lakes therein, for liability under the rule does not arise except there was an
162 escape of the ‘dangerous’ substance from a place in the occupation, or
163 control of the defendant to another place which is outside his occupation or
164 control.

165
166 In *Shell B.pDev Co Ltd v. Anaro* [21], the plaintiff brought four actions, each for the
167 compensation of damage done to the farmland, crops, and rivers caused by an oil prospecting
168 company, which laid its pipe carrying crude-oil across the land occupied by the respondents.
169 According to Per Akinta JCA;

170 “...it was not in dispute that if the oil spilled on the land, it was
171 escape of causing several damage to crops and vegetables, including
172 fish in rivers. The onus should not be on the plaintiff (now
173 respondent) to prove that the escape was due to the negligence on the
174 part of the appellant. The rule *res ipsa loquitur* was, in my view,
175 applicable. Similarly, the appellant knew that he was keeping
material – the crude oil which could be regarded as dangerous to the
environment if allowed to spill and there was in fact a spillage. The
rule in *Rylands v. Fletcher* (supra) was also application”

176 Similarly, in *Chief Otuku v Shell B.p Petroleum Dev. Company Ltd*¹, crude oil from the
177 defendant manifold escape to the plaintiffs land. This caused damage to the plaintiff’s drinking
178 well and juju shrine [21].

179 To clear the spill, the defendant dug two waste pits and buried the crude oil. The plaintiff
180 brought an action against the company based on negligence and alternatively the rule in *Rylands*
181 *v. Fletcher*. The court held the defendant company liable under the rule for the escape and
182 consequent damage. Delivering judgment, Idioko J said;

183 : pits and burying the crude oil
184 athered a non-natural user.”

The court went further to hold that the crude oil which passed through pipelines are substances which prima facie are dangerous and likely to escape, hence not a natural use of land.

Again, in *Edheanowe v Shell B.p* [7], the defendant company in the course of their petroleum operation dug a waste pit for the storage of oil. When the pit was full, more oil was dumped in it. This resulted in an escape of oil from the waste pit to the plaintiff's land. The oil damaged the plaintiff's fishpond resulting in the death of the fishes; the court held that the accumulation of oil in a waste pit is a non-natural use of land.

However, with the nature of Nigeria jurisprudence, there are certain factors undermining the success of claims brought under the rule in *Rylands v. Fletcher*. One of those factors is the issue of jurisdiction. It is trite law that before any court entertains a claim or an action, it must ensure that it had jurisdiction. Anything contrary to this may render such action being struck out. In *Shell B.p Dev. Co Ltd.v. Isaiah* [21], an action was brought against the defendant for escape of crude oil into the plaintiff's dry land, swamp and stream.

According to the plaintiffs, the escape was caused as a result of negligence on the part of the defendants in constructing a trap to contain the spillage. On appeal, the issue of jurisdiction arose. The supreme court was obliged to look into the issue and after review of selected case and statutes, it held that since the state high court lacked jurisdiction to entertain matters touching on mining operations which according to the Constitution of Nigeria lies exclusively within the realm of the Federal High Court, the issue of jurisdiction determines the whole appeal. In other words, the issue of jurisdiction vitiated other issues and claims lying before the Supreme Court in respect of the case. Similarly, in *Barry v Eric* [7],[21], it was canvassed that a matter arising from geological survey and natural gas lies exclusively within the power of the Federal High Court.

A second problem is the issue of assessing damages. How sufficient is the criteria used in assessing damages? The fact remains that, at times, damages awarded for any injury caused are not usually sufficient and at other times take a longer period before it is being awarded. Moreover, claims for special damages according to law must be strictly proved. In *Shell B.p Development Co. Nig. Ltd v. Tiebo vii* [7],[21], an action was brought by the respondent as plaintiff in the Yenegoa High Court of Rivers State against the appellant as defendant claiming as special and general damages the total sum of ₦64,146,000 for negligence as well under the rule in *Rylands v. Fletcher* in alternative being compensation from the appellant in accordance with Section 11 of the Oil Pipeline Act. The Court of Appeal held that before an award of special

217 damage can be made, it must be strictly proved, that is, that the person actually suffered such
218 damages claim.

219 Again, a claimant bringing an action under the rule in *Rylands v. Fletcher* or probably
220 negligence must be able to bring sufficient evidence to prove that the defendant has not kept a
221 standard oilfield practice. In *Chinda v Shell B.p Development Co Ltd* [7], the court held that the
222 plaintiff's claim of damage must fail as they did not produce any evidence of negligence in the
223 defendant's operation of the flare sites [21].

224 The common law principle in *Rylands v. Fletcher* has been imported into some existing
225 statutes in Nigeria. For example, Section 1 of the Oil in Navigable Waters [21],[39], provides;

226 “(1) If any oil to which this section applies is discharged from a Nigeria ship into a part
227 of the sea which, in relation to that ship, is a prohibited sea areas, or if any mixture
228 containing not less than 100 parts of oil to which this section applies is discharging from
229 such a ship into such a part of the sea, the owner or master of the ship shall, subject to the
230 provisions of this Act, be guilty of an offence under this section.

231 (1) This section applies to;

- 232 a) To crude oil, fuel and lubricating oil, and
233 b) To heavy diesel oil.”

234 Also, Section 245 of the Criminal Code Act provides thus;

235 “Any person who corrupts or fouls the water of
236 any spring, stream, well, tank, reservoir, or place,
237 so as to render it less fit for the purpose for which
it is ordinary used, is guilty of a misdemeanor and
is liable to imprisonment for six months” [41]

238

239 **5.4 The Issue of Compensation**

240 Compensation according to the M. A. Ajomo [5] “is all about making amends for the loss
241 suffered by victims”. In making the amends, the victim's loss must be recompensed lest the
242 compensation become inadequate. In any case of compensation however, a cardinal guiding
243 principle of compensation claims is that it must be fair and adequate [5].

244 Persons making compensation claims must be able to prove damage as the compensation
245 payable is determined by the extent of damage. Although parties may sometimes be in dispute
246 over the extent of damage, they must agree that some damage has been done.

247 The Quantum of compensation paid for Environmental damage is determined by an
248 assessment of the affected area. The evaluation is carried out by experts in various fields
249 depending on the type of pollution involved and the evaluation is always scientific. It was
250 illustrated in the case of Seismograph Services v. Ogbeni [3].

251 Importance of expert witness in Environmental cases; this case was dismissed for want of
252 Expert Evidence to prove damage.

253 If the pollution is being assessed, e.g. oil spill occurred offshore the services of a marine
254 surveyor would be required to quantify the damage done. If the claim concerns a farmland, the
255 services of an estate surveyor will be required. To determine the quantum of compensation, full
256 information of conditions in the area before and after the incident complained of is required. But
257 the effect of pollution is sometimes extended over a long period after the incident², thus
258 rendering useless any present computation of compensation. To this extent, it could be seen that
259 the rigor involved in proving damages alone occasions hardship to innocent litigants who have
260 suffered damages as a result of petroleum pollution in Nigeria [5].

261 5.5 The Problem of Compensation

262 Ever since oil bunkering, pipeline vandalism and sabotage had been blamed on acts of
263 third parties, compensation has suffered a setback to victims of oil spills in Niger Delta. The
264 object of this chapter is to discuss the problems associated with the concept of compensation. It
265 inquires on who is responsible for the payment of compensation to oil spill victims. This is in
266 line with the fact that Nigeria has become one of the most petroleum – polluted environments in
267 the world.

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268 The challenges of oil spill include: habitat degradation and pollution from gas flaring.
269 These have acted synergistically with other environmental stresses to impair the ecosystems and
270 severely compromise human livelihood and health. The unfortunate incidents makes victims,
271 individual and the host communities, land owners, pond owners and other property owners to
272 demand compensation. In discussing the problems associated with the concept of compensation
273 reference will be made to the agony of the Ogoni³ people in their quest for compensation arising
274 from oil pollution prevalent in the area.

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275 276 5.6 Compensation

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277 Compensation is the normal kind of damages awarded. Its purpose is to compensate a
278 victim of a tort for the injury he has suffered⁴. The law of compensation forms part of the general
279 law of remedies and is with agreement with the constitution of Nigeria⁵. The meaning of
280 compensation was succinctly articulated by Dixons in the Australian High court in the case of
281 **Nelungaloo Pty Limited v. Common Wealth**⁶, in the following term:

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283 “Compensation prima facie means recompense for loss
284 and when an owner is to receive compensation for being
285 deprived of real or personal property his pecuniary loss
must be ascertained by determined value to him of the
property taken from him.”

286
287 In Nigeria, there are both constitutional and statutory provisions for the payment of
288 compensation in appropriate cases. Additionally, Article 21(2) of the African Charter on Human
289 and People’s Right (to which Nigeria is a state party) provides that ‘all peoples’ who are
290 disposed of their ‘wealth and natural resources’ ‘shall have the right to the lawful recovery of its
291 property as well as to adequate compensation’. The primary aim of torts law is to compensate
292 those persons who have suffered injury or damage as a result of acts or omissions of others.
293 Compensatory damages therefore seek to compensate those victims of tortious injuries and put
294 them as far as money can do it, in the position they would have been had the tort not been
295 committed. Compensation therefore must be fair and adequate.

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298 It has been rightly said that even though the constitution has not used the word adequate
299 compensation, the act of compensation should be equivalent in value to the property
300 acquired. In *Esi v. Warri Divisional Town Planning Authority*⁷, Atake J, rightly stated:

301 “It is clear in my views that sustenance and
302 reasonableness form the basis for determining
303 what is adequate compensation”.

304
305 Therefore, from the above discussion adequate compensation is achieved if what is offered as
306 compensation is nearly commensurate with what has been lost or suffered.

307
308 The dispensation of Justice, the unbridled impunity of the multinational oil companies to flout
309 Nigerian laws and lack of awareness of the uneducated host communities.

Comment [D25]: This is an isolated topic or a disjointed part of a discussion.

311 The ineptitude of government to the enforcement of the petroleum pollution laws

312
313 The war on pollution control should be strictly based on legislation in order to put an end to it. It
314 has been observed that there are enough legislations on pollution in Nigeria but the problem
315 which has made environmental pollution cases to linger on and its reoccurrence is because the
316 government’s reluctance in enforcing and implementing the various legislations to the letter
317 simply because government appears to favor and encourage foreign investments with its
318 attendant economic benefits. The government is more interested in bringing these oil companies
319 and foreign partners because of the financial gains and economic benefits they derive from them.
320 The various royalties and huge taxes paid by these multinationals, appears to have swayed the
321 government, from taxes they derive and also attending to the environmental hazards caused by
322 their exploration activities.

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323 It is against this background that, the government has closed its eyes on the plight of its own
324 citizens, whether they are dying or living in swamps and degraded environments. We
325 recommend that government should be more proactive in showing concern to the wellbeing of its
326 citizens than being more interested in making money and attracting foreign partners. For
327 instance, section 6(2) of national oil spill detection and Response Agency states that “An oil
328 spiller is by this Act to report an oil spill to the agency in writing not later than 24 hours after the
329 occurrence of an oil spill, in default of which the failure in report shall attract a penalty in the
330 sum of five hundred thousand naira (N500,000.00) for each day of failure to report occurrence”.
331 A piece of legislation such as this should be strongly enforced by the government not minding
332 whether or not these oil companies and foreign investors will refrain from doing business with
333 them. This is because if the government implements this legislation, pollution cases will be
334 minimal for fear of being held liable for breach of the law.

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335 Also recommend is the need for government to emulate on how other jurisdictions have handled
336 cases which has to do with their natural environment and apply same in Nigeria. For instance, the

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337 United States since 1977 has made constructive efforts to make natural resources damage claims
338 easier to litigants. This indisputably informed the passage of the Comprehensive Environment
339 Response Compensation and Liability Act of 1980, commonly called SUPERFUND. The Act
340 provided inter alia, that the President shall promulgate regulations for the assessment of damage
341 for injury to destruction or loss of natural resources resulting from a release of oil or hazardous
342 substances. This type of legislation is hereby recommended for Nigeria as a way of curbing the
343 pollution problems prevailing in her environment.

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344 In summary, the point being made is not to say that, there are no laws in Nigeria on
345 pollution but lack of government's political will to enforce these laws. If the legislatures make
346 these laws and the courts interpret it, then it is the sole responsibility of the executives to
347 implement the laws other than being more interested in income generation, foreign partnership
348 and economic benefits as against the lives and general well-being of their own citizens who live
349 in swampy areas deprived of a meaningful source of livelihood as a result of petroleum activities
350 which result in pollution cases. So, if the government can through the instrumentality of its
351 political will become more pro-active in enforcing and implementing the laws as well as
352 adopting the techniques used in other jurisdiction as pointed above, this will go a long way to
353 curb the pollution excesses in Nigeria, and also provide adequate compensation to victims who
354 have suffered various harms in Niger Delta and Ogoni in particular.

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355 The Conservatism of the Judiciary

356 The importance of the judiciary in assisting the backward communities in Nigeria is
357 noteworthy, that is why the judiciary being the last hope of the common man should take
358 cognizance of the disadvantaged position of pollution victims in contrast with that of the oil
359 companies. Certain unnecessary procedures and technicalities required before victims can proof
360 pollution cases should be relaxed. I recommend that once there are visible proofs of pollution,
361 the court should proceed against the erring companies without employing procedural
362 technicalities, in line with the rule in Rylands and Fletcher.

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See lines 414 & 415

364 Strongly recommended also is the independence of the judiciary in their administration of
365 justice. The judiciary not be influenced by the executive to decide cases in order to achieve their
366 selfish aims. One way the judiciary can be independent is by making sure that the judiciary gets
367 there remunerations from an independent account or source, and not from the executive in other
368 to avoid being penalized for deciding a case contrary to how the executives would have perhaps
369 wanted it.

370 The judiciary should not be seen dancing with the executive in not implementing the law
371 owing to the fact that the judiciary is an arm of the executive.

372 Impunity of Oil Companies to Disregard Nigerian Laws

373 During the Human Rights violations investigation panel which held in Port Harcourt in
374 1999, it was revealed to Nigerians that shell does not flare gas in Holland, its home country. One
375 then wonders why the same technology is not used in Nigeria. It therefore means that the
376 uncompromising attitude of these oil companies is as a result of government's patronage. Hence,

it is recommended that both the government and the court should maintain strong objections to these unwholesome practices which obviously bring about pollution, for instance gas flaring. By doing so, the oil companies will have no choice than to operate in accordance with the law more reasonably, and this will bring about a better environment for Nigeria.

Lack of Education and Awareness of the Host Communities

The future of conservation depends so much on education. Individuals must be taught that their lives are closely related to their environment. They possess a rich natural inheritance which can easily be destroyed but by adequate knowledge. Also, it is seen in most cases that the people do not even know their rights when it has to do with taking up cases relating to pollution and compensation issues. Although cases bordering on environmental pollution are often being regarded as public issues which of course should be taking up by the Attorney General of the state. Howbeit, it remains trite that, where an individual can show that he has suffered more than every other person in such circumstance he or she can sue in his personal capacity.

It is against this background that, it is strongly recommended that, the government, apart from enforcing the various pollution legislations should, in conjunction with other stakeholders to environmental issues in Nigeria, provide, by creating various awareness programs which is geared towards the education of the rural populace and oil-bearing communities in Nigeria of their rights to preserve and protect their environments by seeking redress in courts of competent jurisdictions where they suffer personal injuries resulting from oil pollution.

Comment [D46]: Did the study cover these aspects being recommended?

6. Summary and Conclusion

Petroleum exploration, production and the exports of oil and gas resources has substantially improved the Nigerian economy. However, there are also enormous harm which has been done to individuals and the environment as a result of petroleum activities in Nigerian. These activities have resulted in the pollution of lands, water, air which form the ecosystem. This paper, the applicability of rule in *Rylands v. Fletcher* to petroleum activities in Nigeria, has discussed the effects of petroleum activities on the environment; the fate of the victims of this occurrence; the remedies available, and problems of compensation. The question often asked is, with the plethora of petroleum pollution legislation in Nigeria, has pollution and excesses of the petroleum companies been curbed? if the answer is in the negative what are responsible for its non-implementation and enforcement? It is against this background that this work has tried to determine whether or not the rule in *Ryland v Flether* has been judicially applied to particular cases of pollution arising from petroleum activities in Nigeria. The Hallmark of this investigation has been to seek the strict application of this rule to petroleum activities in Nigeria. This is because if the oil companies whose petroleum activities cause pollution are held strictly liable under this rule and other similar legislations bordering on pollution, the environment of Nigeria will be restored and adequate compensation will be paid to the victims.

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However, from our observation so far, it is discovered that certain factors had acted against this aim. On this note, we hereby make the following recommendations as factors which can help secure a successful application of this rule.

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7. Recommendations

Taking cognizance of the views elucidated in the previous pages, four major factors have been identified as militating against the successful operation of the applicability of the rule in *Rylands v. Fletcher* to petroleum activities in Nigeria. These factors includes the ineptitude of government to the enforcement of the petroleum pollution laws, the conservatism of courts in

Comment [D50]: This started from line 324.

Comment [D51]: incomplete

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