

# The Challenges of Implementing International Treaties in Third World Countries: The Case of Maritime and Environmental Treaties Implementation in Nigeria

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## Abstract

Most third world countries, including Nigeria have traditionally been active participants within the United Nations system. These countries have also participated in numerous international treaties and conventions on a range of important global issues. However, it would seem that in spite of their enthusiasm to participate in international treaties on various subject matters, extant policies and practices in many of these countries appear to be inadequate in meeting international treaty standards and obligations. This is particularly the case with respect to implementation of treaties relating to maritime and environmental issues in Nigeria. It appears that the country lacks either the necessary capacity or the political will for effective domestication and implementation of the requirements and standards concerning several maritime and environmental treaties. This paper examines the pattern of failures to implement or meet expected treaty standards, which are prevalent particularly in the Nigerian maritime and environmental sectors. It argues that the failures are due to a combination of inadequate prerequisite technical capacities and the lack of political and economic will on the part of the government and non-government operators in the affected sectors. The paper further opines that this trend creates considerable challenges that could affect and limit the interests and welfare of the Nigerian people as well as the standing of the country as a compliant member of the international community. The paper concludes that in order to begin to redeem the situation, the country must effectively strengthen and enforce standards and regulations governing maritime and environmental practices.

**Keywords:** Environmental protection, international law, international treaties and conventions, law of treaties, maritime practices

## 1. Introduction

Nigeria has been a very active member of the international community since gaining independence and joining the United Nations in October 1960. Like other third world and non-aligned countries, Nigerian leaders at independence declared unequivocally the country's belief and commitment to the international system built around the United Nations. Successive leaders and governments have maintained this position. Thus, Nigeria has remained active within the United Nations system and demonstrated commitment to and acceptance of the international political and legal system embodied in various universal and multilateral treaties and conventions instituted under the aegis of the United Nations.

However, beyond the country's apparent enthusiasm and commitment to participate in international treaties, there is the question whether Nigeria is indeed capable of effectively interpreting, domesticating, and implementing international treaties that the country contracts or accedes to. Another question that also arises is whether behind the façade of the enthusiasm to accept and be party to numerous international treaties, the Nigerian state is willing to implement the obligations and standards enshrined in those treaties. While it could be said that Nigeria generally fulfills its treaty obligations in good faith, there are specific cases or subject matters in which the country's posture seems to suggest that it either lacks the capacity to interpret and implement the requirements of those treaties, or it is unwilling to do so because of certain constraints and/or interests.

These questions are particularly germane in respect of international treaties relating to or dealing with the regulation of maritime activities and protection of the environment. Available records have shown in several cases, that the country has failed to implement or put in place necessary standards, policies and structures required to meet the expectations of various international maritime and environmental treaties and conventions to which it is a party. In certain cases, the country has altogether refused to be a party to such treaties and conventions, even though they relate to matters that are crucial to the social-economic and physical well-being of the country and its people. This paper explores the pattern of inability or unwillingness to meet expected treaty standards, which is prevalent particularly in the Nigerian maritime and environmental sectors. The paper also examines the reasons and explanations for this trend which contradicts the avowed foreign policy posture of the country as a compliant and progressive member of the international community. It argues that the trend is not desirable and could have potentially negative consequences and costs for the interests and welfare of the Nigerian people, as well as the country's standing as a compliant member of the international community.

## 2. International Law of Treaties

International law essentially embodies state practices, rules and conventions (including bilateral, multilateral and universal treaties and agreements) that have been accepted by states and other subjects of international law to regulate their relations and interactions and govern their rights and duties within the international system. According to Article 38 of the Statute of the International Court of Justice (ICJ) the sources or components of international law could be enumerated as principally including:

“international conventions, whether general or particular, establishing rules expressly recognized by the contesting states and international custom, as evidence of a general practice accepted as law”.

Other sources of international law are noted to include:

“general principles of law recognized by civilized nations and judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law”.

Essentially, it could be said that treaties and conventions constitute one-half of the corpus of international law. This fact was reflected in the adoption of the Vienna Convention on the Law of Treaties in 1969 by the international community, to provide the framework that will govern the making and operation of international treaties and conventions. Subsequently, the Vienna Convention on Succession of States in Respect of Treaties and the Vienna Convention on the Law of Treaties Between states and International Organizations or Between International Organizations were also adopted in 1978 and 1986 respectively. These conventions embody comprehensive principles and rules upon which international treaties are concluded between and among states and other international personalities. In this regard, Article 2 (1) of the Vienna Convention on the Law of Treaties of 1969 defines a treaty as:

“international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more instruments and whatever its particular designation”.

In addition to specific rules and requirements for the framing and application of international treaties, Article 26 of the Vienna Convention on the Law of Treaties of 1969 contains the core principle of *pacta sunt servanda*, which established the duty of states to perform their obligations under treaties. While the Vienna Convention on the Law of Treaties of 1969 and other relevant rules of customary international law recognize the rights of states and permit them to choose freely to become or not to become a party to a treaty, once a state becomes a party to a treaty and thereby assumes obligations under the treaty, such a state is bound to observe and discharge such obligations. Similarly, state parties to a treaty also have the duty not to breach the obligations under the treaty and not to work against the spirit of the treaty. Indeed, Article 18 of the Vienna Convention on the Law of Treaties of 1969 provides that every treaty in force is binding upon the parties to it and must be performed in good faith, and the state parties are also under the obligation to refrain from acts, which could defeat the object and purpose of a treaty that they have freely signed or expressed consent to be bound by.

Since entering into force, the Vienna Convention on the Law of Treaties of 1969 and other relevant conventions and rules of customary international law have guided the use of treaties for systematic codification of existing international rules, customs and practices on various subject matters. While individual treaties often include specific provisions concerning the rights and duties of the parties, the rules of procedures, operation and interpretation etc., the Vienna Convention on the Law of Treaties of 1969 has provided the ground rules and principles that have generally delineated the sanctity of international treaties and conventions. Consequently, international law of treaties as embodied in the Vienna Convention on the Law of Treaties of 1969 and other relevant instruments have set the standards that states are expected to aspire to with respect to their obligations under treaties. This has been the generally accepted position of international law and common practice among states within the United Nations system.

## 3. Trends in the Implementation of International Treaties

Since the eighteenth and nineteenth centuries, international law has come to increasingly rely on treaties and agreements for regulating the affairs of nations. The role of international treaties and conventions as important components of the corpus of international law assumed particular prominence and significance following the establishment of the League of Nations and the Permanent Court of International Justice (PCIJ) at the end of the First World War. That trend became even more compelling with the establishment of more complex and integrated international institutions such as the United Nations, the ICJ and other international organisations and agencies after the Second World War. In particular, the United Nations system has developed a large corpus of international law through the creation of numerous treaties and legal regimes governing the activities of the international community (Aust 2000; Brownlie 1990). These treaties have covered a wide range of issues and subjects including: diplomacy and friendly relations, trade, culture, health, agriculture, travel, communication, science, technology, environment, ocean and marine affairs, shipping, outer space, military and arms and armament matters, etc.

The international legal regimes created by the various international treaties have established standards and rules governing the rights and obligations of nations on various subjects. Increasingly, treaties and conventions now govern, regulate and provide law and order in areas that had hitherto been considered as uncharted or indeed beyond human domain. The institution of such multilateral or universal legal regimes have enabled man to deal with such diverse global issues from the environment to world oceans, marine resources, the outer space and other common heritages of mankind. Such treaties have also established standards by which the conducts of states are to be exercised and measured even in matters that are within their national purview and jurisdiction. Major examples include the various conventions on human rights such as the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, which regulate rights and obligations on issues within the domestic jurisdiction of states.

Over the years, and in particular since the conclusion of the Vienna Convention on the Law of Treaties in 1969, matters relating to the status and operation of international treaties have been well regulated. In line with the principles and rules contained in Vienna Convention on the Law of Treaties of 1969 and other relevant instruments of international law, the world has witnessed fairly orderly and consensual development, adoption and implementation of many international treaties. Similarly, there has also been a reasonable level of compliance by states with their obligations under international treaties. Indeed, available records have shown that a reasonable majority of states in the international community have and are disposed to complying with their obligations under treaties. However, beyond this general picture, there exists a small minority of states (big powerful states and small defiant ones) who for various reasons have consistently failed to participate in, accept and/or comply with the legal regimes created by international treaties and conventions on range of variety of issues.

Contrary to the provisions of the Vienna Convention on the Law of Treaties of 1969 which established the obligations of states to discharge duties which they have assumed as parties to international treaties, there is a growing trend for some states to decline or jettison such treaty obligations. This undesirable practice of non-compliance by states could take one or more of the following cases:

- i. States become parties to international treaties and breach or work against the spirit and or letters of such treaties;
- ii. States become parties to international treaties with full knowledge that they lack the capacity to implement the obligations and standards required under the treaties;
- iii. States become parties to international treaties without the willingness to implement and comply with the obligations arising from the treaties; and
- iv. States become parties to international treaties and violate or breach obligations and standards arising from the treaties as circumstances dictate.

The foregoing cases are breaches that are not acceptable under international law of treaties and constitute threats to the maintenance of international law and order. Observers have noted that the spread of this kind of posture of disregard for treaty obligations has been more or less championed by the United States. Available records show that the United States has either refused to participate in, pulled out of, or actively worked against the spirit of several international treaties and conventions. Examples of such major treaties include: United Nations Framework Convention on Climate Change (UNFCCC) of 1992, the Kyoto Protocol to the UNFCCC of 1997, the Rome Statute of the International Criminal Court (ICC) of 1998 and the Comprehensive Nuclear-Test-Ban Treaty of 1996 among others (Deller at al. 2003; Hajjar 2003). There are other countries that have flagrantly followed in the path and example of the United States to also routinely breach obligations and standards arising under international treaties. These countries include big developed states as well as small defiant ones, among which are, the United Kingdom, Israel, North Korea, Sudan and possibly Iraq. These states have the tendency to interpret, apply and enforce international law and treaty obligations as they see fit.

The conduct of these errant states ignores the very foundation of international law, which is based on consensus and universalism. It also hinders the realization of the fundamental objectives of many crucial treaties and conventions. However, there is also another group of states (though not in the same league as the United States), these state nevertheless routinely fail to meet the standards of implementation and obligations laid down in international law of treaties and in particular, treaties to which they are parties. This latter group of states is made up of mostly small third world and developing countries and this study seeks to investigate the case of Nigeria as one of these countries.

#### **4. Nigeria's Posture Towards Maritime and Environmental Treaties**

Since becoming a member of the United Nations as an independent sovereign state in October 1960, Nigeria has actively participated in various international treaty making fora. Obviously, the country had inherited numerous multilateral and bilateral treaties and conventions that were concluded before it became an independent state. It has also participated in and become party to numerous other international treaties that have been concluded since

1960. Indeed, it could be said that Nigeria has been an active participant in the process of the development of international law through the codification in treaties and conventions. The country has equally participated with and sometimes led other countries within the West African sub-region, the African continent and the world at large, in shaping and concluding major international treaties and conventions through international platforms such as the Non-Aligned Movement and the Group of 77.

In general terms, Nigeria could be said to be a compliant member of the international community as far as participation and discharge of obligations under international treaties is concerned. The country arguably has a fairly good record of participation in almost all the twenty-nine (29) subject areas into which the multilateral treaties deposited with the UN Secretary General are classified. However, curiously Nigeria has had questionable record with respect to certain treaties which by their nature and subject matters are considered critical. Among such treaties are: Convention on the Prevention and Punishment of the Crime of Genocide of 1948 and the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment of 1984. Both of these conventions deal with important international humanitarian issues to which the generality of the international community attached high importance, but Nigeria only ratified them in 2009 and 2001 respectively (United Nations 2016a).

However, beyond the failure to participate in certain treaties or minor breaches of obligations in one treaty or the other, there is a major concern about Nigeria's posture and records with respect to international treaties relating to maritime and environment matters. In these two areas - regulation of maritime activities and protection and development of the environment - Nigeria appears to demonstrate a particular lack of capacity (technological and manpower) and/or lack of willingness (political and economic) to meet international standards and expectations. There is ample evidence of this lack in the country's maritime and environmental policies and practices vis-a-vis the standards and requirements laid down in international environmental and maritime treaties and conventions.

#### *4.1 Implementation of Treaties Relating to Maritime Affairs*

Nigeria is a party to several international treaties relating to or governing various marine and maritime subject matters. Some of such treaties are: the Convention on the International Maritime Organization (IMO) of 1948 and its various amendments, the United Nations Convention on Conditions for Registration of Ships of 1986, the International Convention on Arrest of Ships of 1999, the Geneva Convention on the Territorial Sea and the Contiguous Zone of 1958, the Geneva Convention on the High Sea of 1958, the Geneva Convention on Fishing and Conservation of the Living Resources of the High Sea of 1958, the Geneva Convention on the Continental Shelf of 1958 and the United Nations Convention on the Law of the Sea of 1982 (United Nations 2016b). These treaties variously establish regimes governing aspects and issues concerning access, use, rights, duties and management of marine and maritime areas and activities. They set the rights and obligations of states and delineate the extent and degrees of claims and responsibilities of states in various areas and activities. The treaties also lay down the standards and measures that are to be complied with and enforced by state parties with regard to activities carried out in those areas.

For instance, the International Maritime Organization (IMO) Convention of 1948 established a global organization charged with the responsibilities of overseeing shipping and maritime activities and relations among states. Over the years, the IMO has in turn concluded several protocols and conventions to govern various aspects of shipping and maritime concerns. Similarly, the four Geneva Conventions of 1958 collectively instituted rules and standards governing the relations of states and non-state actors in various areas and zones of the marine environment including; the territorial sea and contiguous zone, the high sea, and the continental shelf. In recognition of developments in the practice of states as well as advancement in technology and maritime activities, the provisions of the four conventions of 1958 have since been updated and are now embodied in the UN Convention on the Law of the Sea of 1982, which now contain comprehensive rules and standards that govern all aspects of the use and management of the seas and oceans of the world including shipping, naval, environmental research and industrial activities therein.

As a state party to all these treaties and conventions, Nigeria is expected to meet its obligations and to respect the rights of other parties to the treaties and conventions. But even more importantly, the country is expected to adopt and domesticate the provisions of these treaties and conventions in its domestic laws and policies, such that the various standards and requirements established in the conventions become those that are applicable and obtainable within the country. This is where the crucial question arises: are international standards and requirements being applied in the management and control of the Nigerian marine and maritime sector? Specifically, how does the Nigerian marine and maritime legislations, policies and structures meet the following tests:

- i. Are ship ownership and registration policies and regulations in Nigeria in compliance with the rules and standards set forth in the UN Convention on Conditions for Registration of Ships of 1986, the UN Convention on the Law of the Sea of 1982 and other relevant IMO protocols and conventions;



- ii. Are marine and maritime safety regulations in Nigeria in line with the standards established in relevant IMO protocols and other treaties and conventions;
- iii. Are marine pollution regulations in Nigeria in line with the standards established in relevant IMO protocols and other treaties and conventions;
- iv. Are Nigerian regulations relating to the welfare, salaries and other conditions of seamen and maritime personnel in line with those standards established in relevant IMO protocols and rules;
- v. Are the standards, requirements and regulations established in respect of marine and maritime activities actually been implemented and enforced in Nigeria; and lastly
- vi. Are companies and ship owning concerns operating in Nigeria under the obligation to meet standards laid down by relevant international treaties and conventions.

The foregoing questions bring to focus the fact that beyond signing and becoming a state party to various international treaties and conventions, does Nigeria possess the capacity, manpower and technology to be able to adequately implement and enforce the standards and requirements established by various international treaties and conventions. This is especially the case in respect of marine and maritime activities, which are highly technologically driven and requiring advanced skills that are often not available in developing third world countries such as Nigeria. The other question that arises apart from the capacity to implement and enforce treaty obligations and standards, is whether the Nigerian state is willing to implement and enforce those standards and requirements. This second question is relevant in view of the fact that the willingness to meet those treaty standards and requirements may be challenged by certain political, economic and private interests of powerful groups and actors within the system.

Although successive governments have enacted legislations and established key institutions such as the Nigerian Maritime Administration and Safety Agency (NIMASA), Nigerian Ports Authority (NPA) and Nigerian Institute for Oceanography and Marine Research (NIOMR), which are variously vested with the responsibility for promoting and regulating applicable national and international rules, standards and requirements in the maritime sector, the conducts of many local and multinational players perennially fall short of those standards. It is in recognition of this gap that the government recently unveiled several initiatives including; institutional restructuring, operational reforms, concessioning and privatization in key areas (such as shipping, port standards, port security, piracy, bunkering and pollution etc.) with the aim of improving the performance of the sector and complying with international standards and obligations (Jaafaru and Akinsoji 1997).

Accordingly, one observes a disconnect between the enthusiasm of the Nigerian government to participate and be a state party to major international maritime treaties and conventions and the country's ability and willingness to implement and enforce the obligations and standards embodied in those treaties and conventions. As observed earlier, a cursory examination of the extant policies, regulations and practices in the Nigerian maritime sector reveals a wide gap between treaty obligations and prevailing practices. It would seem that key maritime institutions are handicapped by a range of challenges including: technical capacity, manpower and skills shortage, funding, systemic inefficiency and corruption; all of which limit their capacity and ability to ensure adequate and consistent compliance with international standards in several operational and developmental aspects of the maritime sector. Some of the areas where such laxity manifests include; registration and regulation of shipping, welfare of seamen, maritime security, control of pollution and other hazardous practices and threats to the marine environments. For instance, the prevalence of poor regulatory and enforcement policies and structures has led to widespread pollution of the coastal waters, inland waterways, lagoons, swamps, creeks and other marine environment by ship owners and other maritime operators who are known to routinely dump wastes, oil and other discharges and/or jettison and abandon wreckages and dead vessels without fear of sanctions. A visit to major maritime cities like Lagos, Port Harcourt and Warri would confirm the state of pollution of the coastal and waterways across the country. It would seem that only lip service is paid by the regulators and the operators to a whole range of issues that borders on the safety of maritime operations, personnel and environment in clear contradiction of Nigeria's obligation under various international marine and maritime treaties and conventions. For our purpose in this paper, the reasons for the failure to meet those standards are immaterial. Suffice it to say that, on many fronts, policies and practices in the Nigerian maritime sector do not match international obligations and commitments as enshrined in various treaties and conventions as well as the principles and rules laid down in the Vienna Convention on the Law of Treaties of 1969 and other instruments of the laws of treaties.

#### *4.2 Implementation of Treaties Relating to the Environment*

While concerns for the environment and campaigns to combat practices that endanger the environment have been popular in the western hemisphere for some time, they have only recently become popular in many developing countries. In Nigeria, environmental campaigners only began to receive attention as people become increasingly aware of the dangers that could result from careless human activities on the environment. On the part of the government, environmental concerns are often treated with the usual lip service and invariably

sacrificed for the convenience of economics and group interests. While Nigeria is seen to participate actively in international conferences and treaty-making negotiations on issues relating to the environment, at the domestic level, the government's commitment to extant domestic or international regulations and standards leaves much to be desired.

Presently, Nigeria is a party to several international treaties governing various issues relating to the promotion and protection of the environment. Some of these treaties include: the Vienna Convention for the Protection of the Ozone Layer of 1985, the Basel Convention on the Control of Transboundary Movement of Hazardous Waste and their Disposal of 1995, the United Nations Framework Convention on Climate Change (UNFCCC) of 1992, the Kyoto Protocol to the UNFCCC of 1997, the Convention on Biological Diversity of 1992, the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa of 1994 and the Stockholm Convention on Persistent Organic Pollutants of 2001 (United Nations 2016b). These treaties and conventions embody rules and standards that govern the activities of state parties (and sometimes non-state entities in the international community as well) with regard to the environment. These treaties set the dos and don'ts and the rights and duties of states, non-state actors and in some cases individuals with respect to the environment. They also seek to entrench standards and measures through which the environment could be protected from hazards and damages resulting from human activities. In some cases, these treaties and conventions stipulate punishments, restitution and remedial measures that should be invoked and applied where damage or harm has occurred to the environment.

As a party to these treaties and conventions, Nigeria is under the obligation to apply international standards and measures in regulating and monitoring the environment. The country also has the duty to put in place policies and structures for the implementation and enforcement of those standards within Nigeria. The question is how well has Nigeria undertaken this obligation? Are Nigerian laws and regulations dealing with the environment in line with international requirements and standards? More importantly, are these laws and regulations been adequately, consistently and strictly enforced to protect the environment in accordance with the country's commitment as part of the global system?

As noted earlier, until recently there was little awareness or concern for damages and pollution occurring in the environment and accordingly there was little record about Nigeria's obligations on the environment or indeed how these obligations were being discharged. However, since the early 1990s, agitations by civil rights and environmental activists such as the late Ken Saro-Wiwa have brought domestic and global attention to the level of environmental damage that is being committed by various categories of operators in the Nigerian economy. Of particular attention were the activities of oil and gas prospecting and producing companies who have for many years undertaken oil and gas activities without regard for the consequences of their activities on the environment. The other side consists of many varied local and communal practices by peoples and communities up and down the country which impact negatively on the environment.

Several studies as from the mid-1990s have revealed the enormity of damage and destruction that are being wrecked on the environment, land and livelihood of people especially in communities within the vicinity of the oil and gas producing areas in Nigeria. According to one of such reports on the state of environment in the Niger Delta area, some of the environmental problems identified in the area include:

"flooding and coastal erosion, sedimentation and siltation, degradation and depletion of water and coastal resources, land degradation, oil pollution, health problems and low agricultural production as well as socio-economic problems, lack of community participation and weak or non-existent laws and regulations" (Human Rights Watch 1999).

A common trend that comes out of many similar reports on the environmental condition in the Niger Delta has been that environmental laws and regulations are either weak or non-existent. Consequently, over the years the negative impacts of the activities of various economic operators on the environment have manifested without meaningful regulatory or enforcement effort by the government at all levels. Indeed, in most cases of urgent or systemic hazard or pollution, the outcries of environmental activists, campaigners and local communities have been largely ignored by government institutions or economic operators.

This raises the question whether Nigeria has an obligation to meet international requirements and standards with regards to the protection of the environment and indeed, whether the country's policies and regulatory structures are in line with those standards and requirements? In other word, does Nigeria implement and enforce the same standards with regards to activities of individuals and organizations on the environment as it has signed onto in various international treaties and arrangements governing the environment? Among several such international environmental obligations, in the Preamble of the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal of 1989, states affirmed that:

"They are responsible for the fulfillment of their international obligations concerning the protection of human health and protection and preservation of the environment, and are liable in accordance with international law."

Also, with particular reference to the marine environment, Article 207 of the UN Convention on the Law of the

Sea of 1982 provides that:

“States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.”

These are examples of the international obligations of the various levels of government in Nigeria in terms of the promotion and protection of the environment. The next sections will examine what occurs in reality.

Firstly, at the simplest and most basic level of public waste management, the policies and structures of government are at best uncoordinated and inefficient. Despite the passage of various environmental laws such as the Harmful Wastes (Special Criminal Provisions) Decree, No.42 of 1988, the Federal Environmental Protection Agency Decree, No.58 of 1988 (amended in 1992) and the Environmental Impact Assessment Decree No.86 of 1992, various state and local governments still make do with whatever waste removal arrangements they could muster. A visit to major state capitals across the country will reveal unsightly and unhealthy waste deposition in public and private space; the consequence of total absence or inefficient public waste management system. Even where the various levels of government create public waste management agencies and allocate state resources in that regard, the level of service and sanitation is often inadequate. This trend does not meet the health interests of the Nigerian people and is clearly not in compliance with the standards envisaged in several international conventions on the environment.

Secondly, with respect to pollution resulting from domestic cooking, carbon exhaust from automobiles and industrially generated smoke and dust, Nigeria lacks clear and coordinated policies. Provisions in the existing laws and regulations on air pollution and other carbon emissions are inadequate to meet the threats posed to the atmosphere and standards envisaged in various conventions relating to the ozone layer and climate change including the various United Nations frameworks and protocols on climate change. Furthermore, despite the establishment of key government agencies such as National Environmental Standards and Regulations Enforcement Agency (NESREA) and National Oilspill Detection and Response Agency (NODSRA), existing Nigerian regulations and structures have not proven to be effective in tackling the growing problem of pollution in coastal areas, rivers, inland waterways, swamp, creeks etc. Over the years, industrial operators, marine operators, merchant ships and oil and gas exploration companies have routinely operated with disregard for the environment, while the government appears helpless in enforcing the international standards and measures established in treaties and conventions. Evidence abound that most Nigerian states and local government institutions involved in environmental resource management lack funding, trained staff, technical expertise, adequate information, analytical capability and other pre-requisites for implementing meaningful environmental protection policies and programme. Accordingly, most Nigerian urban cities bear the marks of chemicals, oil and other industrial wastes dumped or channelled into drainages, streams or lagoons. This practice is clearly not in the spirit of most international treaties and conventions relating to the environment.

Perhaps more significantly, the failure of the Nigerian state to comply with international obligations and standards established in various treaties relating to the environment is demonstrated in the flagrant despoliation, pollution and destruction of the environment by oil and gas prospecting and producing companies in Nigeria. Evidence abound that major players in the Nigerian oil and gas sector routinely disregard safety practices to prevent damage and pollution arising from their activities. Simply put, the safety levels or standards applied by many of the multinational oil companies are not the same as those applied in their operations in their home countries in Europe or America. Also, in incidents where oil and gas pollution or damages has occurred to the environment there is evidence that many oil companies and operators do not take the required measures to arrest and repair the damage. Their attitude comes short of what is expected or obtainable under similar conditions in Europe or America. Invariably, the Nigerian Niger Delta area, the operating base and fields of these oil and gas producers have become synonymous with oil spills, blowouts, and fire out breaks, which perennially pollute and destroy rivers, streams, farmlands, home and livelihoods of the host communities. In the face of this environmental damage and pollution which is contrary to international standards and obligations to which Nigeria is bound, the government either looks the other way or displays gross ineptitude.

Lastly, successive Nigerian governments have also failed to put in place necessary remedial measures for dealing with the consequences of environmental pollution and damage including compensation as required by various international treaties and conventions. It is commonplace in Nigeria to read in the media that an oil company is offering a community a paltry amount of money as compensation for enormous damage to their environment and livelihood resulting from oil activities. Until the recent judicial pronouncements and international acclamation that certain oil and gas companies should pay for environmental pollution and damages and the necessary clean-up in Ogoni and other areas of the Niger Delta, the Nigerian government was often helpless or indeed ignores the cries of the local communities while the oil companies continue with their reckless standards of operation. Indeed, the recent launching of a multibillion dollar environmental clean-up exercise in desecrated oil and gas producing areas is a major breakthrough and indication of potential change in direction in terms of environmental stewardship by various levels of Nigerian government.

Notwithstanding this ‘potential change of direction’, the general posture of the Nigerian government suggests connivance or support for the oil and gas companies in pursuit of their common interest to keep oil and gas production going at whatever cost to the environment. This may also provide explanation for why Nigeria has up till date not become a party to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters adopted in 1998 (United Nations 2016a). The convention seeks to address the concerns of campaigners and activists that people, particularly in the developing countries have no access to the process of decision-making and do not often get justice in matters relating to their environment. The convention is a very important international instrument that is bound to improve the management of the environment; it is a wonder therefore that Nigeria has neither signed nor acceded to the convention.

## 5. Conclusion

The policies and practices of the Nigerian government with respect to the implementation of international maritime and environmental treaties reviewed so far confirms the assertion that Nigeria appears to either lack the capacity or is unwilling to implement and enforce the provisions, obligations and standards enshrined in those treaties. Generally, there is no doubt that Nigeria has always played positive role in the negotiation and conclusion of international treaties; available records show that Nigeria has often led and supported attempts by groups like the G77 to influence and ensure the best possible outcomes in the negotiation of crucial international treaties and regimes such as the UN Convention on the Law of the Sea of 1982, the UN Framework Convention on Climate Control of 1992 and its Kyoto Protocol of 1997 etc. In addition, Nigeria also usually fulfils legal and constitutional requirements of ratification and domestication of many such international treaties, and where applicable the country has also demonstrated good faith by passing relevant domestic legislations and establishing agencies and structures that would facilitate the implementation of such international treaties.

However, this study finds indications of a particular departure from this general posture and trend with respect to compliance with and implementation of international treaties relating to maritime and environmental issues. The review of Nigeria’s policies and practices with regards to existing maritime and environmental standards suggests strongly that the country needs to reassess its policies and structures for implementation and enforcement of international treaty requirements and standards in maritime and environmental matters. One possible explanation that could be offered for Nigeria’s poor showing in this regard is that the obligations and standards engendered by major maritime and environmental treaties are often technical in nature. Secondly, there is also the explanation that these obligations and standards usually concern the operations of the Nigerian maritime and oil and gas sectors, two areas which seem to be largely dominated by foreign companies and operators. However, these explanations should not gloss over the laxity of government with respect to the regulation and management of various public and social practices and conducts that negatively impact the environment.

Several reports on the abominable environmental situation in the Niger Delta have concluded that the country’s main environmental challenges result from oil spills, gas flaring and deforestation. A Human Rights Watch report on corporate responsibility and human rights records of oil and gas companies in Nigeria had reached the conclusion that foreign oil and gas operators appear to have a lot of leverage in setting operational and environmental standards that suites them. For instance, the Human Rights Watch report quoted John Jennings, a former group chairman of Shell, the dominant oil and gas operator in Nigeria, as saying that:

“the charge of ‘double standards’ is mistaken, because it is based on the notion that there is a single, ‘absolute environmental standard’. ...As long as we continue to improve, varying standards are inevitable” (Human Rights Watch 1999).

The foregoing and similar other evidence lead one to the conclusion that successive Nigerian governments have remained unwilling or unable to comply with and implement international treaty standards and obligations particularly in the country’s maritime and environmental sectors. In order to begin to build sanity in the Nigerian maritime and environmental sectors, there is need apparently to set, maintain and enforce standards in the laws, regulations and policies of the country governing maritime and environmental issues. Such efforts on one hand would enable the Nigerian government to achieve some measure of uniformity of standards in the country as well as meet its international obligations vis-à-vis standards and requirements that are entrenched in international treaties and conventions.

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