

Assessing the Legal Framework for the Realization of Environmental Democracy in Nigeria* *

Abstract

Environmental democracy reflects the growing recognition that environmental issues must be tackled by all those affected by their effect, and not just by governments, corporate and industrial sectors. The environment and its natural resources play a significant part in guaranteeing a secure, healthy and productive life for the international community. Thus, the rising concern for the environment has compelled citizens of different nations to demand for increased opportunities to be involved in the decisions that will affect the quality of their lives and their environment. This concern has been at the vanguard (frontline) of the international environmental governance discourse and it is believed to be a channel of making environmental governance issues more public-participatory and the government more transparent, effective and accountable in its environmental decision-making processes. This paper, which adopted the doctrinal research methodology, assesses the concept of environmental democracy in the light of the existing legal framework on the realization and promotion of the enjoyment of environmental democracy by the Nigerian people. It traces the legal foundations of environmental democratic rights in the international environmental governance discourse as well as its status within the Nigerian environmental governance legal framework. To achieve its aim, the paper is divided into four sections starting with the introduction. Section two x-rays the importance of environmental democracy. Section three examines the legal framework for environmental democracy in Nigeria, while the paper concludes in section four with recommendations.

Keywords: Environmental Democracy, Rights of Public Access, Environmental Governance, EIA Act, NESREA Act, Nigeria

1. Introduction

Environmental democracy is rooted in the idea that meaningful participation by the public is critical to ensuring that decisions that affects the environment adequately and equitably address citizens' interests.¹ Environmental democracy is about government being transparent, accountable, and involving people in decisions that affect the quality of their lives and their environment.² Environmental democracy signifies the balance between representative and

* **Empire Hechime NYEKWERE**, Lecturer, Department of Public and International Law, College of Law, Bowen University, Osun State, Nigeria. PhD Research Candidate (Nnamdi Azikiwe University, Anambra State, Nigeria); LL.M. (University of Ibadan, Oyo State, Nigeria); BL (Lagos); LL.B (Obafemi Awolowo University, Osun State, Nigeria). Email: empirehechime@gmail.com

** **Ngozi Chinwa OLE**, Senior Lecturer, Faculty of Law, Federal University of Oye Ekiti, Ekiti State, Nigeria. Ph.D (University of Aberdeen, Scotland); LL.M (University of Aberdeen, Scotland); BL.; LL.B (Ebonyi State University, Ebonyi State, Nigeria).

¹ J Worker & S Ratté, "What Does Environmental Democracy Look Like?" (World Resource Institute (World Resources Institute, 2014) <<https://www.wri.org/insights/what-does-environmental-democracy-look>> accessed 11 May 2022.

² G R Pring & C K Pring, *Greening Justice: Creating and Improving Environmental Courts and Tribunals* (The Access Initiative: World Resources Institute, 2009) p.6; H Rugayah, D M R Nurul & L Normarlina 'Attitudes toward Environmental Democracy among Urban Communities', 7th Asian Conference on Environment-Behaviour Studies, National Taiwan University, Taipei, Taiwan, 09-10 April 2016, *Environment-Behaviour Proceedings Journal*, p.35 <<https://www.semanticscholar.org/paper/Attitudes-toward-Environmental-Democracy-among-Hashim-Ristak/9da38696a275fa961774a1105a04045cef13f591>> accessed 12 May 2022; EPIC, *Protecting Environmental Democracy* (Environmental Protection Information Centre 2016) <www.wildcalifornia.org/action-issues/environmental-democracy/> accessed 19 March 2022.

participatory decision-making, reflecting the will of those with an essential stake in the outcome and bringing environmental values into the policy-making process. The concept can be further described as the achievement of a satisfactory level of transparency, inclusive, participatory, accountable, consensus-oriented, and responsive decision-making³ in environmental matters. The notion of environmental democracy assumes that governments operating with openness, accountability, and civic participation will make better environmental decisions. That is, such a government will achieve good governance since giving the public a voice in environmental decision-making is likely to improve the formulation, implementation, and enforcement of environmental policies.⁴ It is believed that governmental decision-making that does not stand up to these basic tenets will produce outcomes that are more likely to be environmentally damaging and developmentally unsustainable.⁵ government.⁶

Environmental democracy is hinged on the right and ability of the public to freely access relevant and timely environmental information. Provide input and scrutiny into environmental decision-making through active participation and to challenge decisions made by public or private actors, which might damage the environment or violate their rights before an accessible, independent, and fair legal authority.

2. The Importance of Environmental Democracy: Examining the Importance of the Three Pillars of Environmental Democratic Rights

The rights of citizens and other members of the civil society to environmental information, public participation in environmental decision-making, and access to justice in environmental matters are indispensable if any nation is to foster environmental protection and sustainable development. The goal of the promotion of environmental protection and sustainable development is one that calls for co-operation of the government, private individuals, non-governmental organizations, businesses, and other sectors of the society.⁷

³ I Cenevska, 'Euratom and 'Environmental Democracy': EU Citizens' Access to Information and Participation in Decision-Making in Nuclear Arena' in *The European Atomic Energy Community in the European Context* (Koninklijke Brill NV, Leiden 2016); See UNESCAP, United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP)-What is Good Governance? (UNESCAP 2002) <www.unescap.org/sites/default/files/good-governance> accessed 21 March 2022.

⁴ B Nicole, 'Do Europeans Have a Right to Environment? p.5 <www.esil-sedi.eu/sites/files/Bjerler_0> accessed 4 May 2017; See H N Empire, 'Appraisal of the Emergence of Environmental Human Rights Under International Law' [2019] (2) *Redeemer's University Law Journal (RUNLAJ)*, pp.116-147.

⁵ D S Lalanath & W Jeremy, 'Globalizing Environmental Democracy: A Call for International Action' (*Perspectives*, Iss. No. 7, United Nations Environment Programme, 2012) p.16.

⁶ H Rugayah, D M R Nurul & L Normarlina (n. 2) p.36; See J R Carbonell & J E Allison 'Democracy and State Environmental Commitment to International Environmental Treaties' [2015] (15)(2) *International Environmental Agreements: Politics, Law and Economics*, pp.79-104; W F Baber & Bartlett, R W 'Toward Environmental Democracy: Rationality, Reason, and Deliberation' [2001] (11)(1) *The Kansas Journal of Law & Public Policy*, p.35; R A Hart, *Children's Participation: The Theory and Practice of Involving Young Citizens in Community Development and Environmental Care* (Routledge 2013); A B Mak, & B Lew. 'Does Democracy affect Environmental Quality in Developing Countries?' [2011] (43)(9) *Applied Economics*, pp.1151-1160.

⁷ M Damon & T Sterner, 'Policy Instruments for Sustainable Development at Rio +20' [2012] (21)(2) *The Journal of Environment & Development*, pp.143-151; See U R M Den & P P J Driessen, 'Evaluating Governance for Sustainable Development-Insights from Experiences in the Dutch Fen Landscape' [2015] (163) *Journal of Environmental Management*, pp.186-203; See H Human, 'Democratising World Heritage: The Policies and Practices of Community Involvement in Turkey' [2015] (15)(2) *Journal of Social Archaeology*, pp.160-183; See S Mukherjee & D Chakraborty, 'Is Environmental Sustainability influenced by Socioeconomic and Socio-political Factors? Cross-Country Empirical Evidence' (2013) (21)(6) *Sustainable Development*, pp.353-371.

2.1. Importance of the Right of Public Access to Environmental Information

It has been emphasized that access to information is a crucial element of a democratic society, a precondition to some fundamental rights, and indeed of any form of participation in decision making. Recently, it has been suggested that access to government information should be considered a fundamental human right, for the reason that knowledge of the activities of one's leaders is being seen as crucial to the maintenance of other human rights.⁸ Access to environmental information empowers and motivates people to participate in a meaningful and informed manner. Meaningful participation requires access to the information that outlines the foundation for decisions, the possibility to voice opinions, and the capability to influence choice amongst potential outcomes.⁹ The right to access environmental information leads to increased awareness about environmental concerns and enhances transparency of environmental decision making by public authorities.¹⁰

Public awareness of environmental matters is essential to prevention of damage to the environment and to the prosecution of environmental law violations. Access to environmental information furnishes the public with knowledge about the environment's importance and its vulnerability to degradation. It also can equip the public to analyse and understand proposals, options, alternatives and explanations put before it with respect to a given environmental effect.¹¹ It can also discourage 'traditional' practices detrimental to the environment, for example, fishing with explosives, destroying fish habitat, etc. It is only a person who is aware that can effectively participate in environmental decision making.¹² Access to environmental information is a prerequisite to public participation in decision-making and to monitoring governmental and private sector activities. It also can assist enterprises in planning for and utilizing the best available techniques and technology. In turn, effective access to justice in environmental matters requires an informed citizenry that can bring legal actions before informed institutions.¹³

Access to environmental information-usually defined broadly and with a presumption in favour of disclosure ensures that people can know the actual and threatened environmental impacts of particular actions, and respond appropriately.¹⁴ Access to environmental information is crucial to the management of environmental matters and the making of environmental decisions.¹⁵ Giving the public access to information and to express their views regarding the environmental

⁸ *ibid.*

⁹ J Foti & others, 'Voice and Choice: Opening the Door to Environmental Democracy' (World Resources Institute, 2008) p.2; See David B & others, *Moving from Principles to Rights Rio 2012 and Ensuring Access to Information, Public Participation, and Access to Justice for Everyone* (Article 19 and The Access Initiative, July 2011); See K Monika & R Andrew, *The Access Initiative: a Network in Action* (World Resource Institute, 24 July 2009).

¹⁰ S B Takele & C Poncelet, 'Access to justice in environmental matters - does the European Union comply with its obligations?' [2012] (24)(2) *Journal of Environmental Law*, p.288.

¹¹ F S Ngozi, 'A Proposal of Reforms for Effective Environmental Management in Nigeria' [2016] (1)(1) *Ajayi Crowther University Law Journal*, pp.16-17; See Popovic, N. 'The Right to Participate in Decisions that Affect the Environment' [1993] (10)(2) *PELR*, p.692.

¹² F S Ngozi, *ibid.*

¹³ Nicholas A R & Lal K, *Training Manual on International Environmental Law* (2006) <<http://digitalcommons.pace.edu/lawfaculty/791/>> pp.79-80.

¹⁴ K Francis-Nishima, *An Evolving Environment: A Discussion of the Dispersal of Environmental Information and Public Participation* (The Environmental Law Centre Society, Canada 2003) p.2.

¹⁵ B Lindsay & H Jaireth, 'Australian environmental democracy and the rule of law-thoughts from APEEL' [2016] (31)(7) *Australian Environmental Review*, p.247.

conditions in their communities will not only improve the public support of environmental initiatives but increase the credibility, effectiveness, and accountability of the government decision making processes.¹⁶ Also, access to environmental information has the potential to result in environmental education. Environmental education is a learning process that increases people's knowledge and awareness about the environment and associated challenges in order to develop the necessary skills and expertise to address the challenges and fosters attitudes, motivations, and commitments to make informed decisions and take responsible action.¹⁷

Environmental information, education, and enlightenment of the public are regarded as the best form of prevention of environmental harm.¹⁸ In open democratic systems, a well-informed public can observe and measure the outcomes of policies and express their policy preferences.¹⁹ Access to environmental information will help to enlighten citizens on environmental threats and the origin of such threats and enable the public to effectively advocate for environmental protection.²⁰ Put differently, access to environmental information helps to develop an environmentally literate citizenry and creates public awareness that empowers the public to develop a strong sense of responsibility on environmental issues.²¹ Effective right of access to information is what will enable citizens to question, challenge and otherwise influence decision making in a more positive manner as well as to enhance the transparency of environmental justice.²²

2.2. Importance of the Right of Access to Public Participation in Environmental Decision-Making

Public participation is necessary for the existence of a democratic society.²³ Public participation has been defined as 'purposeful activities in which citizens take part in relation to government'.²⁴ Participation in environmental decision-making is believed to be the most crucial role played by the citizens of any nation in matters of environmental protection. The origin of public participation is "the right of those who may be affected to have a say in the determination of their environmental future."²⁵ Currently, the involvement of the citizens in environmental decision-making has been rationalized from two points of view, a procedural

¹⁶ T Alali, *The Legal Roadmap for Environmental Sustainability in Africa: Expansive Participatory Rights and International Environmental Justice* (S.J.D. Dissertation, Pace University School of Law, 2012) p.106; C Lisa, UN report details global failure to enforce environmental laws, 24 January 2019 <<https://www.devex.com/news/un-report-details-global-failure-to-enforce-environmental-laws-94181>> accessed 13 May 2022.

¹⁷ T Alali, *ibid*; See UNESCO/UNEP, Intergovernmental Conference on Environmental Education, Tbilisi, USSR, 14-26 October 1977: final report <<https://unesdoc.unesco.org/ark:/48223/pf0000032763>> accessed 13 May 2022.

¹⁸ K Francis-Nishima (n. 22) p.21.

¹⁹ J Foti & others (n. 17) p.2.

²⁰ M O Erhun, 'A Legal Framework of Sustainable Environmental Governance in Nigeria' [2015] (3)(4) *Frontiers of Legal Research*, p.35.

²¹ Nigerian National Policy on the Environment (Revised 2016) p.48 <<http://extwprlegs1.fao.org/docs/pdf/nig176320.pdf>> accessed 13 May 2022.

²² M O Erhun, (n. 28).

²³ C G Joshua & J Christopher 'Procedural Environmental Rights and Environmental Justice: Assessing the Impact of Environmental Constitutionalism' *Economic Rights Working Paper Series: Working Paper 25* (Human Rights Institute: University of Connecticut August, 2015) p.4.

²⁴ O Akpezi, 'The Role of Public Participation and Ethics in Environmental Law Implementation and Diplomacy' in K Tuula & E Couzens (Eds), *International Environmental Law-making and Diplomacy Review 2007* (University of Joensuu – UNEP Course Series 7, University of Joensuu Department of Law, Finland, 2008) p.56; L Stuart, 'What is Citizen Participation?' in L Stuart (Ed), *Citizen Participation in America* (Lexington Books, 1978) p.13.

²⁵ P Giulia (n. 10) p.68; D Shelton, 'Human Rights and the Environment: What Specific Environmental Rights have been Recognized?' [2006] (35)(1) *Denver Journal of International Law & Policy*, p.139.

perspective, and a substantive perspective. The latter is based on arguments that the public is required to participate in solutions as well as decisions. The former is found in the fact that it provides for the democratic legitimacy of those decisions.²⁶

The right of access to participate in governmental environmental decision-making processes allows the public to be involved in the development of projects and policies, rule-making, drafting new laws or revising old ones, determining privileges, rights, and obligations of individual citizens as well as the implementation of environmental provisions.²⁷ Public participation in environmental decision-making is an effective tool to establish environmental priorities, offer solutions to environmental challenges and prepare, execute and apply the most accurate decision possible.²⁸ Also, at the implementation stage, public vigilance is critical for monitoring, inspection, and enforcement of environmental laws and policies by identifying and raising with appropriate authorities, environmental threats, and violations.²⁹

It is believed that public participation is central to the notion of environmental democracy. This is because public participation enhances the likelihood that government agencies will be held accountable to the public, infuses local knowledge into decision-making processes, increases popular support for policies, and produces higher-quality planning outcomes, environmental decisions, and conservation efforts.³⁰ Public participation can help identify and address environmental problems at an early stage which helps to save reaction-time, energy, and scarce financial resources, at least in the long run. It engenders civic competence by building democratic skills, overcoming feelings of powerlessness and alienation, and contributing to the legitimacy of the political system. It serves an educative function by teaching citizens to understand the difference between individual desire and common interest and equipping them with the knowledge and confidence needed to engage in subsequent participatory activities.³¹ Public participation in environmental decision-making offers an attractive means of empowering individuals and groups that have been historically disadvantaged in environmental governance.³²

Public participation allows a broad spectrum of members of the public to express their views regarding environmental issues and conditions confronting them and affecting their immediate

²⁶P Giulia, *ibid*, p.69.

²⁷ B Carl & F Meg, 'Emerging Global Norms of Public Involvement' in B Carl (Ed), *The New "Public": The Globalization of Public Participation* (Environmental Law Institute, 2002) pp.2&9.

²⁸ A Du Plessis, 'Public Participation, Good Environmental Governance and Fulfilment of Environmental Rights' [2008] (2) *PER*, pp.11-12.

²⁹ H Rugayah, D M R Nurul & L Normarlina (n. 2); J Milyo, L E Richardson & D M Konisky, 'Environmental Policy Attitudes: Issues, Geographical Scale, and Political Trust' [2008] (89)(5) *Social Science Quarterly*, pp.1066-1085.

³⁰ C G Joshua & J Christopher (n. 31); L Laurian, 'Public Participation in Environmental Decision Making: Findings from Communities Facing Toxic Waste Cleanup' [2004] (70)(1) *Journal of the American Planning Association*, p.53; See P Sultana, & S Abeyasekera, 'Effectiveness of Participatory Planning for Community Management of Fisheries in Bangladesh' [2008] (86)(1) *Journal of Environmental Management*, pp.201-213.

³¹ C G Joshua & J Christopher, *ibid*; See C Pateman, *Participation and Democratic Theory* (Cambridge University Press, 1970) pp.42-43; O Renn & others. 'Public Participation in Decision Making: A Three-Step Procedure' [1993] (26)(3) *Policy Sciences*, p.210; D J Fiorino, 'Citizen Participation and Environmental Risk: A Survey of Institutional Mechanisms' [1990] (15)(2) *Science, Technology, & Human Values*, p.229; B S Edward, *Consensual Verses Hierarchical Approaches to Environmental Decision Making: The Case of the Massachusetts Military Reservation* (Masters Thesis, Department of Urban Studies and Planning, Massachusetts Institute of Technology, 1997).

³² C G Joshua & J Christopher, *ibid*, p.5.

environment³³ prior to the implementation of development projects impacting on the environment.³⁴ The utilization of these views in governmental decision-making in environmental matters results in better implementation of the goals of environmental protection and sustainable development. This is because the resultant decisions are beneficiaries of an expanded knowledge base on the nature of environmental problems that are to be met by the decisions.³⁵ Thus, a balance of representative and participatory decision-making, informed by public access, will most likely reflect the will of those with an essential stake in the outcome, and most likely to bring environmental values into the policy-making process.³⁶

Public participation in environmental decision-making also helps improve the credibility, effectiveness, and accountability of governmental decision-making processes. This is as a result of broad-based consensus for environmental programs that flows from the involvement of the public at the infancy stages of the decision making processes.³⁷ Access to participation in environmental decision-making enhances the ability of a government to be responsive to public concerns and demands, to build consensus, and to improve acceptance of and compliance with environmental decisions.³⁸ Not only can the quality of decisions be enhanced, but the participation of the public by itself also increases the likelihood that decisions will be implemented with the support and involvement of the affected people.³⁹

Actually, among the most persuasive arguments for the benefits of public participation in environmental decision-making is that it builds trust in decisions made by public officials. And, it is believed that the legitimacy of decisions is central to strengthening implementation.⁴⁰ Stakeholders who believe a decision was reached through a fair and inclusive process are less likely to oppose or obstruct its execution, even when the decision itself is not entirely to their liking. Thus, public participation is a mechanism to inject public values into environmental lawmaking and implementation through integration of input from members, allowing public values to inform legislative positions and policy implementation. This will in turn promote voluntary public action in the interest of protecting the environment.⁴¹

2.3. Importance of the Right of Public Access to Justice in Environmental Matters

While a complex concept, access to justice can be simply defined as “The ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity

³³ H Rugayah, D M R Nurul & L Normarlina (n. 2); See Agnone, J. ‘Amplifying Public Opinion: The Policy Impact of the U.S. Environmental Movement’ [2007] (85)(4) *Social Forces*, pp.1593-1620.

³⁴ A Jean-Claude, ‘Public participation in environmental decision-making in Cameroon: Myth or reality’ in Kameri-Mbote & others (eds) *Law, Environment, Africa* (Nomos, 2019) p.349.

³⁵ H Rugayah, D Nurul & L Normarlina (n. 2); See J Agnone, (n. 41).

³⁶ J Foti & others (n. 17).

³⁷ H Rugayah, D M R Nurul & L Normarlina (n. 2); M Ojile & O Bodude, ‘Best Practice Public Consultation and Participation in IA for Large Development Projects - A Case Study Example from Nigeria’ ‘IAIA14 Conference Proceedings’ Impact Assessment for Social and Economic Development 34th Annual Conference of the International Association for Impact Assessment 8-11 April 2014, Enjoy Hotel and Casino, Viña del Mar, Chile; See E Conrad & others, ‘Rhetoric and Reporting of Public Participation in Landscape Policy’ [2011] (13)(1) *Journal of Environmental Policy and Planning*, pp.23-47; See M T Ladan, ‘Trend in Access to Justice in Environmental Matters in Nigeria’ Research Work Paper Series No. 10, 2014, p.4.

³⁸ J Foti & others (n. 17) p. 2.

³⁹ UNEP, *Putting Rio Principle 10 into Action: An Implementation Guide* (United Nations Environment Programme, 2015) p.12 (hereinafter, UNEP, *Putting Rio Principle 10 into Action*).

⁴⁰ J Foti & others (n. 17).

⁴¹ O Akpezi (n. 32) p.63.

with human rights standards".⁴² Access to justice in environmental matters has gained ascendancy as an effective mechanism for holding governments accountable and ensuring that environmental laws and regulations are enforced.⁴³ Access to environmental justice covers three types of legal issues: (1) Claims to challenge denial of access rights, that is, right of access to environmental information and right of access to public participation in environmental decision-making. (2) To prevent or remedy environmentally harmful activities. (3) To enforce environmental laws.⁴⁴ Thus, any person who considers that his or her request for environmental information has been unreasonably refused, inadequately answered or ignored, or not handled in accordance with applicable laws should have an opportunity to challenge such decision, act, or omission before a court of law or other independent and impartial body.⁴⁵ Also, an individual or group is entitled to an opportunity to challenge the substantive and procedural legality of any decision, act, or omission relating to public participation in decision-making in environmental matters before a court of law, or other independent and impartial body.⁴⁶

Access to justice serves four principal purposes in the context of environmental democracy. First, it strengthens the freedom of information, allowing civil society to press governments for information they were otherwise denied. Second, access to justice will enable citizens the means to ensure that they participate meaningfully and are appropriately included in decision-making on environmental matters. Access to justice also levels the playing field by empowering groups that may not have an influence in legislative processes or may not have the ear of government ministries to seek redress in the courts and other forums. Finally, access to justice increases the public's ability to seek compensation and remedy for environmental harm.⁴⁷

Therefore, access to justice component of environmental democracy promotes accountability and the rule of law. It recognizes that the achievement of environmental protection and sustainable development depends upon the judicious use of fair and impartial administrative and judicial mechanisms to establish enforceable norms. Access to justice ensures that standards for implementation of the environmental democratic information and participation provisions will be fostered and upheld in a fair, timely, and effective manner.⁴⁸ Thus, access to justice allows people to hold government agencies, companies, and individuals accountable.⁴⁹ Access to justice guarantees that these democratic environmental rights are not just paper pronouncements but detailed requirements that people can enforce in courts and administrative bodies.⁵⁰ By allowing for the right of public access to remedy and redress in environmental matters, environmental values are more likely to become part of the policy-making process.⁵¹

⁴² G R Pring & C K Pring (n. 2) p.7; UNDP, *Programming for Justice: Access for All – A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice* (United Nations Development Programme, 2005).

⁴³ G R Pring & C K Pring, *ibid*, p.xi.

⁴⁴ *ibid*, p.7.

⁴⁵ O O Yetunde, *Corporate Sustainability and the Business' Environment: An Evaluation of the Nigerian Oil Industry* (Un published Masters Thesis, University of Cape Town, South Africa) p.90.

⁴⁶ *ibid*, p.91.

⁴⁷ J Foti & others (n. 17); Stec S & Casey-Lefkowitz S, *The Aarhus Convention: An Implementation Guide* (United Nations, 2000).

⁴⁸ See UNEP, *Putting Rio Principle 10 into Action*.

⁴⁹ J Foti & others (n. 17).

⁵⁰ B Carl & F Meg (n. 35).

⁵¹ J Foti J & others (n. 17) p.4.

3. Legal Framework for Environmental Democracy in Nigeria

While numerous laws seek to govern and protect the environment in Nigeria, the Environmental Impact Assessment (EIA) Act 1992 and the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007 provides for environmental democracy (that is, right of public access to environmental information, right of access to public participation in environmental decision-making, and right of public access to justice in environmental matters) and specify democratic environmental duties for government bodies in Nigeria.⁵² This section examines the democratic environmental rights and duties as provided in the EIA Act and the NESREA Act.

3.1. The Environmental Impact Assessment (EIA) Act 1992⁵³

The Environmental Impact Assessment (EIA) Act of 1992,⁵⁴ which is administered by the Nigerian Federal Ministry of Environment, is the main legislation for environmental impact assessment practice in Nigeria. Section 2(1) of the EIA Act of 1992 provides that no project within the private and the public sector shall be undertaken without prior consideration of their effects on the environment at an early stage.⁵⁵

The EIA Act provides for environmental democracy in Nigeria. The EIA Act contains democratic environmental rights, that is, right of public access to information on environmental issues, right to public participation in environmental decision-making, and right of access to justice in environmental matters, available to persons when the environmental impact of a large-scale project comes into question.⁵⁶ In Nigeria, one of the goals of environmental impact assessment as contained in the Environmental Impact Assessment Act is:

To encourage the development of procedures for information exchange, notification and consultation between organs and persons when proposed activities are likely to have significant environmental affects on boundary or trans-state or on the environment of bordering towns and villages.⁵⁷ The EIA Act also allows judicial review of any matter relating to assessments under the Act.⁵⁸

In the light of the foregoing, it is clear that the EIA process includes exchange of information and notification (right of public access to information) and consultation (right of access to public participation) between organs and persons with regard to projects which will significantly affect the environment.⁵⁹ Also obvious is the fact that the EIA Act allows for judicial review of any matter relating to assessments of environmental impacts under the Act.⁶⁰

⁵² T Alali (n. 24).

⁵³ Environmental Impact Assessment (EIA) Act 1992, Cap E12 LFN 2004 (hereinafter, EIA Act 1992)

⁵⁴ Note: There are two versions of the existing EIA Act. The first version was released as EIA Decree No. 86 of 1992. The second version came into circulation sometime in 2010. The major changes in the second version include replacing the word “Decree” with “Act”, and FEPA (as an implementing agency) with Federal Ministry of Environment.

⁵⁵ EIA Act 1992, section 2(1).

⁵⁶ U C Ejiogu, *The Human Right to a Healthy Environment in Nigeria: A Guarantee of Access to Justice?* (Masters Thesis, University of Eastern Finland, 2019) p.65; EIA Act, section 7.

⁵⁷ G L Nitoni, *The Doctrine of Absolute Liability and the Right to a Safe Environment: Issues and Challenges in the Liability of Environmental Polluters in Nigeria* (Phd Thesis, University of Wolverhampton, 2017) p.135; See EIA Act, section 1(c).

⁵⁸ EIA Act, section 59.

⁵⁹ EIA Act, section 11(1)(c) which requires consultation in the course of the EIA.

⁶⁰ EIA Act, section 59.

3.1.1. Right of Public Access to Environmental Information under the EIA Act of 1992

One of the primary reasons for conducting environmental impact assessments is to inform the public of the proposed projects thereby establishing a meaningful dialogue with a view to identifying and deploying safeguards to mitigate adverse environmental impacts from the proposed activity.⁶¹ The EIA Act requires the environmental regulatory agency (the Federal Ministry of Environment) to notify the public of EIA reports submitted by project proponents to afford them an opportunity not only to be informed but also to make objection to or negotiate eventual outcomes of the process with the project proponents as well as decisions of the Agency.⁶²

It is mandatory on the Federal Ministry of Environment to publish its decision in respect of project authorization in a manner by which members of the public and all interested persons shall be notified.⁶³ Section 9 of the EIA Act provides:

The report of the Agency shall be made available to interested person or group. If no interested person or group requested for the report, it shall be the duty of the Agency to publish its decision in a manner by which members of the public or persons interested in the activity shall be notified. The Council may determine an appropriate method in which the decision of the Agency shall be published so as to reach interested persons or groups, in particular the originators or persons interested in the activity subject of the decision.⁶⁴

Section 20 of the EIA Act provides that where the Agency (Federal Ministry of Environment) receives a screening report and the Agency is of the opinion that the report could be used as a method of conducting screening of other project within the same class, the agency may declare the report to be a class screening report which shall be published in the Gazette and the screening report to which it relates shall be made available to the public at the registry maintained by the Agency.⁶⁵

Further, where an EIA is mandatory under the Act, the public is expected to be notified following the guidelines in section 25. Section 25 of the EIA Act provides that “After receiving a mandatory study report in respect of a project, the Agency shall, in any manner it considers appropriate, publish in a notice setting out the following information – the date on which the mandatory study report shall be available to the public; the place at which copies of the report may be obtained; and the deadline and address for filing comments on the conclusions and recommendations of the report”.⁶⁶ According to subsection 2 of section 25, prior to the deadline set out in the notice published by the Agency, any person may file comments with the Agency relating to the conclusions and recommendations of the mandatory study report.⁶⁷ Also, section 39 of the EIA Act provides that on receiving a report submitted by a mediator or a review panel,

⁶¹ I Allan & N Chilenye, ‘Environmental Impact Assessment Process for Oil, Gas and Mining Projects in Nigeria: A Critical Analysis’ [2014] (10)(1) *Law, Environmental & Development Journal*, p. 3.

⁶² A Olawale, ‘The Balancing of Interests in Environmental Law in Nigeria’ in Michael F & Willemien D P (Eds), *The Balancing of Interests in Environmental Law in Africa* (Pretoria University Law Press, 2011) p.391; EIA Act, Sections 8, 9, 20(2), 25, & 39.

⁶³T AYusuf, *Environmental Impact Assessment (EIA) Regulations and Practice in Nigeria* (Al-Hakim International, 2017) p.50.

⁶⁴EIA Act, section 9(2), (3) & (4).

⁶⁵ibid, section 20(1) & (2).

⁶⁶ibid, section 25(1).

⁶⁷ibid, section 25(2).

the Agency shall make the report available to the public in any manner the Council considers appropriate and shall advise the public that the report is available.⁶⁸

Also, section 57 of the EIA Act provides for the right of access to environmental information. Section 57(1) states that for the purpose of facilitating public access to records relating to environmental assessment, a public registry shall be established and operated in accordance with the provisions of this Act in respect of every project for which an environmental assessment is conducted.⁶⁹ Section 57(2),(3)&(4) of the EIA Act further provides that the public registry established and maintained by the regulatory ministry shall contain in respect of a project:

1. Records of the commencement of the environmental assessment until any follow-up program in respect of the project is completed;
2. Records of any referral to the mediation and/or review panel, including the appointment of the mediator or the members of the review panel and submission of the mediation/review panel's report to the regulatory ministry or the secretary to the government of the federation as the case may be;
3. Records of any comments filed by the public in relation to the assessment;
4. Records that have otherwise been made available to the public taking part in the assessment under the EIA Act;
5. A record or part of a record in the possession of the regulatory ministry, or any other ministry or government agency, which the regulatory ministry determines would have been disclosed to the public if a request had been made in respect of that record, including any record that would be disclosed in the interest of the public;
6. Any record or part of a record, except a record or part containing third party information. However, if the President, Commander-in-Chief of the Armed Forces, believes on reasonable grounds that the disclosure of such records would be in the public interest and facilitate effective public participation in the assessment, such record would be made available to the public.⁷⁰

3.1.2. Right of Access to Public Participation in Environmental Decision-Making under the EIA Act of 1992

The Nigerian EIA Act provides for the right of access to public participation in environmental decision-making. Section 6 of the EIA Act provides that the information provided about the environmental impact assessment of an intended project shall be examined impartially by the Agency before any decision to be made thereto (whether in favour or adverse to it). However, before the Agency decides on the assessment, it is obliged to give opportunities for public participation. In this regard, section 7 of the EIA Act states that:

Before the Agency gives a decision on an activity to which an environmental assessment has been produced, the Agency shall give opportunity to government agencies, members of the public, experts in any relevant discipline and interested groups to make comment on environmental impact assessment of the activity.⁷¹

From the foregoing, it is obvious that section 7 of the EIA Act creates a public participatory right for members of the public to evaluate and comment on the environmental impact

⁶⁸ibid, section 39.

⁶⁹EIA Act, section 57(1).

⁷⁰EIA Act, sections 57(2),(3)&(4); T A Yusuf, *ibid*, pp.55-56.

⁷¹EIA Act, section 7.

assessment report of a proposed project sent to the relevant agency.⁷² Thus, public involvement in the form of consultation and participation is an accepted integral part of the EIA system in Nigeria. As a legal and administrative requirement, no approval is granted to any project environmental impact assessment without evidence of public consultation and participation of the affected population.⁷³

Section 11 of the EIA Act mandates State and Local Government Areas to display and notify communities of any activity that has been observed from EIA reports which could significantly affect them, and to enter into timely consultations with the affected communities.⁷⁴ Section 11 further provides that it shall be the duty of the Agency to cause the consultations with the affected communities to take place in order to investigate any environmental derogation or hazard that may occur during the construction or process of the activity concerned.⁷⁵ Section 17(1) (c) states that every screening and assessment done by the review panel should consider various factors including the comments of the public. Environmental impact assessment reports must contain evidence of public/community involvement processes and participation. During scoping process, the agency depending on the public interest in the project, may arrange for public hearing/review.⁷⁶

Further, section 22 of the EIA Act provides that after completion of a screening report in respect of a project, the Agency shall before taking a course of action in relation to a project give the public an opportunity to examine and comment on the screening report and any record that has been filed in the public registry established in respect of the project and shall take into consideration any comments that are filed.⁷⁷ Also, during the Draft EIA Report and Review Process phase of the Nigerian EIA procedure, where there is a need for a public review, in accordance with the provisions of section 25 of the EIA Act, interested members of the public are given the opportunity to participate in the EIA review process through comments on project reports that are put on display.⁷⁸ It is noteworthy, that the provision for public comments on project documents, policy analyses, or plans is an essential mechanism for soliciting meaningful public input to government decision-making in environmental matters. Seeking public comments on documents and reports promotes ownership and increases the perceived legitimacy of decisions.⁷⁹

⁷² EIA Act, section 7.

⁷³ M Ajirole & O Bodude, 'Best practice public consultation and participation in IA for large development projects-a case study example from Nigeria' 'IAIA14 Conference Proceedings' Impact Assessment for Social and Economic Development, 34th Annual Conference of the International Association for Impact Assessment, 8 - 11 April 2014, Enjoy Hotel and Casino, Viña del Mar, Chile, p.2 <<http://conferences.iaia.org/2014/IAIA14-final-papers/Ojile.%20Meshach.%20%20Best%20practice%20public%20consultation%20and%20participation%20in%20IA.pdf>> accessed 14 May 2022; See N Echefu & E Akpofure, 'Environmental Impact Assessment in Nigeria: Regulatory Background and Procedural Framework' *Law, Policy and Institutional Arrangements* (UNEP EIA Training Resource Manual-Case Studies from Developing Countries, Case Study 7) <<https://www.iaia.org/pdf/case-studies/EIANigeria.pdf>> accessed 12 August 2021.

⁷⁴ EIA Act, section 11(1).

⁷⁵ EIA Act, section 11(2).

⁷⁶ S E Odemene, *Optimizing Public Participation in Environmental Decision Making in Nigeria*, (Unpublished Thesis, School of Social Sciences: The University of Adaaide, 2015) pp.24-25.

⁷⁷ EIA Act, section 22(1) & (3).

⁷⁸ *ibid*, section 25(1) (c)(2).

⁷⁹ VE Agbazue, E K Anih, & B U Ngang, 'The Role of NESREA Act 2007 in Ensuring Environmental Awareness and Compliance in Nigeria' [2017] (10)(9) *IOSR Journal of Applied Chemistry (IOSR-JAC)* p.35.

Also noteworthy is section 37(b) of the EIA Act where the review panel in its assessment process is required to “hold hearing in a manner that offers the public the opportunity to participate in the assessment.” In other words, the members of the public have the right to participate in the hearing on the review of an environmental impact assessment report.⁸⁰ The EIA Act further stipulates that a summary of comments received from the public should form part of the review panel's report to be submitted to the Council.⁸¹

3.1.3. Right of Public Access to Justice in Environmental Matters under the EIA Act of 1992

The EIA Act provides for the right of public access to justice in environmental matters. Section 59 of the EIA Act allows judicial review of any matter relating to assessments under the Act. Review shall be refused if the only objection is one of form or technical irregularity.⁸² By virtue of the provision of section 59 of the EIA Act, individuals or groups can approach the court to challenge denial of their right to access environmental information and their right to participate in environmental decision-making. Also, the section empowers individuals or groups to approach the court to prevent or remedy environmentally harmful activities. Further, the provision of section 59 of the EIA Act grants individuals or groups the right to approach the court to enforce environmental laws.⁸³ In other words, under section 59 of the EIA Act, the public is entitled to have access to justice to challenge refusals to make environmental information accessible, decisions and omissions about permits for large projects and operations which may have a significant impact on the environment, as well as other kinds of activities which may breach environmental legislation.⁸⁴

3.2. The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007⁸⁵

The National Environmental Standards Regulation Enforcement Agency (NESREA) was established in 2007 by the *NESREA Act* as the lead environmental agency charged with the mandate of protecting the Nigerian environment and ensuring compliance with enacted environmental laws.⁸⁶ Section 2 of the NESREA Act saddles NESREA with the responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology, including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, polices and guidelines.⁸⁷

⁸⁰ EIA Act, section 37(b); See OA Fashina, *Environmental Impact Assessment for Oil and Gas Projects: A Comparative Evaluation of Canadian and Nigerian Laws* [2016] *Electronic Thesis and Dissertation Repository*. 4333, pp.6-77 <<https://ir.lib.uwo.ca/etd/4333>> accessed 13 May 2022.

⁸¹ R T Ako & A A Addeji, Public Participation: An Imperative to the Sustainable Development of the Nigerian Oil Industry, p.37 <www.scribd.com/document/5-RT-AKO-Public-Participation> accessed 20 March 2020; See EIA Act, section 37(c)(ii).

⁸² EIA Act, Sections 37(b) & 39 respectively.

⁸³ G R Pring & C K Pring (n. 2) p.7.

⁸⁴ J Darpo (n. 65) p.1.

⁸⁵ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007, Cap N64 LFN 2010.

⁸⁶ *ibid*, section 1(1); F O Ugbaja, *Regulation of Environmental Pollution in the Nigerian Oil and Gas Industry: The Need for an Alternative Approach* (Masters Thesis, Faculty of Law, University of Calgary, Alberta, Canada, 2016) p.56; M T Ladan, 'Review of NESREA Act 2007 and Regulations 2009-2011: A New Dawn in Environmental Compliance and Enforcement in Nigeria' (2012) (8)(1) *Law, Environment and Development Journal*, p.120.

⁸⁷ NESREA Act 2007, section 2; See M T Ladan, *ibid*.

The NESREA Act provides for environmental democracy in Nigeria. The NESREA Act contains democratic environmental rights of public access to information on environmental issues, public participation in environmental decision-making, and access to justice in environmental matters.

3.2.1. Right of Public Access to Environmental Information Under the NESREA Act of 2007

The NESREA Act made provision for the right of public access to environmental information. One of the functions of the NESREA as set out in section 7(1) of the NESREA Act includes the duty to create public awareness and provide environmental education as it pertains to the protection, management, and conservation of the environment. Section 7(1) of the NESREA Act further obliges NESREA to publish general scientific or other data resulting from the performance of its functions. In other words, by the said section, NESREA is under an obligation to ensure that all Nigerians have scientific information that NESREA generates in its regulatory capacity.⁸⁸ For better understanding, section 7(1) of the NESREA Act provides that the Agency shall:

Create public awareness and provide environmental education on sustainable environmental management, promote private sector compliance with environmental regulations other than in the oil and gas sector and publish general scientific or other data resulting from the performance of its functions.⁸⁹

Also, section 8 of the NESREA Act provides for the right of public access to environmental information. Section 8(p) of the NESREA Act provides that the Agency shall have power to:

Collect and make available, through publications and other appropriate means and in co-operation with public or private organizations, basic scientific data and other information pertaining to environmental standards.⁹⁰

By the above provision, NESREA is duty-bound to collaborate with government and non-governmental bodies in the collection and publication of technical and other information about environmental principles in Nigeria.⁹¹ The collection and publication of technical and other information about environmental principles in Nigeria gives the public the opportunity to access information on environmental matters.

3.2.2. Right of Access to Public Participation in Environmental Decision-Making Under the NESREA Act of 2007

The NESREA Act provides for the right of access to public participation in environmental matters. Section 8(g) of the NESREA Act provides that the Agency (NESREA) shall have power to “conduct public investigations on pollution and the degradation of natural resources, except investigations on oil spillage”.⁹² The conduct of public investigations on pollution and the degradation of natural resources gives room to the public to make comments and inputs (contribute) in the investigations process, thus, giving opportunity to the public to participate in environmental decision-making.

⁸⁸ T Alali T (n. 24) p.189.

⁸⁹ NESREA Act, section 7(1).

⁹⁰ *ibid*, section 8(p).

⁹¹ T Alali (n. 24) p.189.

⁹² NESREA Act, section 8(g).

NESREA involves Nigerian citizens in environmental governance, particularly in compliance monitoring and enforcement, by various ways, such as: advisory committees, document reviews, informational meetings, public forums, citizen monitoring, voluntary environmental marshals or corps. Provision for public comments on project documents, policy analyses or plans is an important mechanism for soliciting meaningful public input to government decision-making. Seeking public comments on documents and reports promotes ownership and increases the perceived legitimacy of decisions. The Agency invites experts from various sectors to make input during the review of old or preparation of new regulations.⁹³

The NESREA Green Corps Initiative also offers the public the opportunity to participate in environmental decision-making. The NESREA Green Corps (NGC) Initiative focuses on individual responsibility to achieving a cleaner and healthier environment. It affords the individual the opportunity to render selfless service to humanity, particularly to his community in the protection of the environment. It also empowers the individual to be a true Vanguard and Watchdog of his/her environment.⁹⁴ Use of a “voluntary environment corps” or “green corps” provides a positive opportunity to involve the citizens in environmental compliance monitoring and enforcement. These are citizens who have volunteered to support the work of government environmental officers.⁹⁵ Already, there are various chapters of NGC in many states across the country. Also, the National Youth Service Corps (NYSC) and NESREA have collaborated to establish the NESREA/NYSC Environmental CDS (Community Development Service, CDS) Group where youth corps members serve as green volunteers amongst other things to create environmental awareness, identify environmental hotspots, and promote and sustain a healthy environment.⁹⁶

The overall goal of the NESREA Green Corps Initiative is to actively involve the citizenry in environmental governance through volunteers under the guidance of NESREA. The specific objectives of the initiative are to;

- Promote environmental volunteerism amongst the citizenry;
- Mobilize the citizenry in solving environmental problems;
- Create environmental awareness at all levels;
- Build partnerships up to the community and grass root levels;
- Inculcate environmental discipline and consciousness;
- Empower the citizenry in effective environmental stewardship.⁹⁷

Further section 8(n) of the NESREA Act also grants the public a participatory right in environmental decision-making. Section 8(n) empowers NESREA to “enter into agreement

⁹³ V E Agbazue, EK Ani & B U Ngang, ‘The Role of Nesrea Act 2007 in Ensuring Environmental Awareness and Compliance in Nigeria’ [2017] (10)(9) *IOSR Journal of Applied Chemistry (IOSR-JAC)*, p.4; N BeneboJp, (2014) ‘Using Enforcement Cooperation to Promote Environmental Governance: The Case of the National Environmental Standards and Regulations Enforcement Agency of Nigeria’ Paper presented by the Director General/Chief Executive Officer, National Environmental Standards and Regulations Enforcement Agency, Nigeria, Dg@Nesrea.Org. At the Ninth International Conference on Environmental Compliance and Enforcement, 2011.

⁹⁴ K Idowu, Environmental Protection: Does Nigeria Really Need Environmental Corps Marshals? <<https://was.tesmart.org/2017/01/environmental-protection-does-nigeria-need-environmental-corps-marshals/>> accessed 13 May 2022.

⁹⁵ V E Agbazue, E K Ani & BU Ngang(n.93), pp.4-5.

⁹⁶ K Idowu (n.94).

⁹⁷ V E Agbazue,E K Ani & B U Ngang,(n.93) pp.4-5; N BeneboJp, (n.93).

and contracts with public or private organizations and individuals to develop, utilize, coordinate and share environmental monitoring programmes, research effects, and basic data on chemical, physical and biological effects of various activities on the environment and other environmental related activities other than in the oil and gas sector”. The exercise of this power by NESREA affords the public (public or private organizations and individuals) the opportunity to participate in environmental decision-making. Whenever NESREA enters into agreement and contracts with public or private organizations and individuals to develop, utilize, coordinate and share environmental monitoring programmes, research effects, and basic data on chemical, physical and biological effects of various activities on the environment and other environmental related activities, the public is also given the opportunity to participate in environmental decision-making.

3.2.3. Right of Public Access to Justice in Environmental Matters under the NESREA Act of 2007

The NESREA Act also provides for the right of access to justice in environmental matters. Section 8(f) of the NESREA Act provides that subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999, and in collaboration with relevant judicial authorities, that the National Environmental Standards Regulation Enforcement Agency shall have power to establish mobile courts to expeditiously dispense cases of violation of environmental regulations.⁹⁸ By the provision of section 8(f) of the NESREA Act, NESREA is empowered and obligated to collaborate with relevant judicial authorities in Nigeria to establish mobile courts to expeditiously dispense cases of violation of environmental regulations, thus, giving victims of environmental harm or damage opportunities to access justice for the harm or injuries they suffered.

Normally, access to justice provisions relate to the possibility for the public concerned to bring legal action in a “court or another independent and impartial body established by law”.⁹⁹ Although, section 8(f) of the NESREA Act does not expressly grant the public the right of access to justice in a court of law in the event of environmental harm or violations. However, victims of environmental harm can still have the right of access to justice and in fact, obtain environmental justice, if NESREA effectively exercise this power of collaboration with relevant judicial authorities to establish mobile courts to expeditiously dispense cases of violation of environmental regulations.¹⁰⁰

4. Conclusion

This paper has shown that environmental democracy is commonly constituted by the three pillars of right of public access to environmental information, right of access to public participation in environmental decision-making, and right of public access to justice in environmental matters. These three pillars work in tandem to help ensure better decision-making in environmental matters. First, right of public access to environmental information include access to timely and reliable information from governmental agencies charged with overseeing activities that affect the environment. Second, right of access to public participation in environmental decision-making enable stakeholders to shape governmental decisions in environmental matters, including permission to submit comments, ask questions, and attend and participate in public meetings. Third, right of public access to justice in environmental matters allow stakeholders to seek civil mediation and enforce court orders in the face of

⁹⁸NESREA Act, section 8(f).

⁹⁹ J Darpö (n. 65) p.17.

¹⁰⁰T Alali (n. 24) pp.189-190.

irresponsible government actions on environmental matters, damage to the environment or violations of environmental laws.¹⁰¹

The justification for environmental democracy is straightforward: environmental democratic rights are central to more representative, equitable, and effective environmental decision-making. Access to information empowers and motivates people to participate in a meaningful and informed manner. Access to participation in decision-making enhances the ability of a government to be responsive to public concerns and demands, to build consensus, and to improve acceptance of and compliance with environmental decisions. Access to justice allows people to hold government agencies, companies, and individuals accountable. Meaningful participation requires access to the information that forms the basis for decisions, the opportunity to voice opinions, and the ability to influence choice among possible outcomes.¹⁰²

It can be said that environmental democracy is not a magic solution that solves all environmental problems. However, if the theoretical construction would be put into practice one-by-one, it could lead to a possible improvement of the assessment of decisions that need to be taken for the protection of the Nigerian environment, and consequently, for the survival of its citizens. Thus, to move towards environmental democracy, it is necessary, on the one hand, to improve citizens' participation processes in environmental decision-making, and, on the other hand, it is also fundamental to create a significant shift in the awareness of the significance of the environment for our survival through adequate public access to environmental information and education. More so, there is need to improve the provision of remedies to victims of environmental harm through adequate and unhindered access to justice.

Consequently, the Nigerian government-federal, state, and local governments, must do more to harness the potential of environmental democracy to extensively create a safer and healthier environment in Nigeria by improving the role and participation of the public in the Nigerian environmental governance structure. This paper, therefore, recommends that the Nigerian government should develop and implement a national strategy on environmental education and public awareness, for example, through the establishment of environmental education resource centres at all levels (national, state and local government levels), and the implementation of innovative public environmental education programmes. The paper further recommends that the Nigerian government should encourage, strengthen and improve the participation and engagement of citizens in environmental decision-making at the federal, state, and local government level. Also, the federal government should enhance the judicial capacity to hear complaints and enforce remedies of environmental violations against all offenders, while also protecting against frivolous claims.

¹⁰¹J R May & E Daly, *Global Judicial Handbook on Environmental Constitutionalism* (Third Edn, United Nations Environment Programme, 2019) p.23.

¹⁰²G R Pring & C K Pring (n. 2) p.6; Foti J & others (n. 17).