

An Appraisal of the Impacts of Armed Conflicts and Insurgency on the Environment in Areas of Conflicts in Nigeria

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Abstract

Insurgency and armed conflict have been a topical issue in Nigeria with devastating effects on the socioeconomic development of the country. The prevalence of this scourge has ravaged most parts of the Northern region of Nigeria. Different regimes in the country have grappled with armed conflicts and insurgencies in the past years with diverse results. From Boko Haram to banditry, as well as farmers and cattle herdsman clashes, has left an indelible mark of destruction on the ambient environment within the affected regions. Armed conflicts and insurgencies no doubt pose significant threats not only to human lives but also to the environment. The paper seeks to explore the impacts of armed conflicts and insurgencies and the damages resulting from armed conflicts and insurgencies in places of conflicts in Nigeria in the face of existing legal frameworks by x-raying cases of armed conflicts in other areas of conflicts to expose the extent of the impacts on the environment in Nigeria. The effects of armed conflict and insurgency on the environment is contextualized critically to appraise the effectiveness of preventing environmental degradation during times of conflicts and insurgencies. In achieving the above objectives, the doctrinal research methodology is adopted to examine literatures and legislation

relating to the environment affected by armed conflicts and insurgencies in Nigeria. It argues that environmental legislation in Nigeria have had very insignificant impacts in protecting the environment in areas where armed conflicts and insurgencies are ongoing. It therefore concludes that the legal and institutional frameworks for combating the effects of armed conflicts and insurgency in Nigeria should be reformed in order to address damages done to the environment in areas of armed conflicts and insurgencies in Nigeria.

Keywords: *Armed, Boko Haram, Conflicts, Environment, Insurgencies, Niger Delta, Nigeria, Northeast.*

1. Introduction

Insurrection and armed hostilities have posed a grave challenge in Nigeria; inflicting severe consequences on the country's socioeconomic progress. Several administrations have grappled with armed conflicts and insurgencies over the years, yielding diverse outcomes. Beyond the clear threats to human life, these conflicts also have deleterious impacts on the environment, leading to substantial degradation across various states and regions of Nigeria. Apart from the military campaign in the North East which is more prominent and pronounced, the Nigerian Armed Forces have equally been involved in combat engagements in other parts of the country which includes but is not limited to combating sea piracy and oil theft in the Niger Delta part of the Country, (Ochojila 2021) as well as dealing with unrests by members of the Independent People of Biafra (IPOB) separatist groups in the South East (Joseph Erunke Abuja 2019). There is no doubt as to the large-scale loss of lives, colossal destruction of properties, national assets and obliteration of the means of livelihood as well as the biodiversity life of plants and animals by the activities of insurgents and the attendant damages occasioned by armed conflicts in Nigeria. For example, the Borno State Government in 2017 announced that about 1 million houses and public structures were destroyed by Boko Haram insurgents in the 27 local government areas of the state (Agency Report 2017). However, the less pronounced victim of armed conflicts and insurgency is the environment

(Tanko 2021). Generally, greater legislative and executive attention and effort is usually invested towards preventing and mitigating the damages inflicted on human lives and properties as these are the more obvious and immediate victims of armed conflicts. There is a plethora of legislation in Nigeria to deal with the menace of armed conflicts and insurgencies in areas of conflicts in Nigeria.¹ Notwithstanding, Section 20 of the 1999 Constitution provides that ‘The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria’ (Constitution (FRN), Cap 23, Sec. 20). In the face of the above, questions have been raised about the nature of weapons and ammunitions used in the course of conflicts by both States and state actors and the insurgents. Amid these, in Sub-Saharan Africa, Nigeria topped the list of countries with the highest defence spending at \$5.8 billion (A.B. Lawal 2022). What this portends is that within the Northeast region is that the environment will be at the receiving end mostly with disused or abandoned military hardware. In addition, neither the Nigerian Constitution and other legislation emanating from it thereto have provisions to tackle incidence of armed conflicts and insurgencies, or as they affect the environment even where the aim of Section 20 of the Constitution is to preserve the environment. While the deleterious effects of armed conflicts and insurgency on civilians have continued to receive attention, little is heard about the impacts of military hardware on the environment (Boer et al. n.d.).

This paper aims to examine the degrading and damaging impacts of armed conflicts and insurgencies on the environment, while highlighting the insufficiencies or otherwise of the existing legal and regulatory framework in failing to address these challenges. In the light of the above, the paper is divided into nine parts. Part one introduces the paper, while part two clarifies terms that are in consonance with the theme of the paper; with a view to highlighting an historical overview of armed conflicts and insurgencies in Nigeria. The relationship between armed conflicts and insurgencies and the environment is discussed in part three, while the impacts of armed conflicts and insurgencies on the environment is discussed in part

¹ These legislations are Terrorism (Prevention) Act 2011 (as Amended) and the Terrorism Prevention (Freezing of International Terrorist Funds and Other Related Measures) Regulations, 2013, National Environmental Standard and Regulatory Enforcement Agency Act, 2007, The National Oil Spill Detection and Response (Establishment) 2006).

four and five. The role of Nigeria's environmental protection laws in the prevention of damages caused by armed conflicts and insurgencies in Nigeria is highlighted in part six. The challenges to an effective enforcement of environmental regulations in Nigeria are highlighted with a view to stating the need for reforms. Part eight on the other hand, analysed the need for protection of the environment in relation to armed conflicts and insurgencies, while part nine adopts a jurisdictional approach by analysing cases of armed conflicts and insurgencies from Ukraine/Russian crisis, Libya, Vietnam War and the U.S and Allied Forces in Iraq, as a way of an insight to addressing cases of armed conflicts and insurgencies in Nigeria.

2. Conceptual Framework

2.1 Insurgency

Insurgency is an ambiguous concept that does not easily lend itself to definition (Cullen 2010). The United States Department of Defence, defines it as an organized movement that has the aim of overthrowing a constituted government through through revolutionary means and armed conflict (Ogunsola-Saliu et al. 2019). This definition suggests that insurgent entities deploy unlawful approaches and methods with the aim of achieving an and which could be economic, political, religious, social or even ideological (Ogunsola-Saliu et al. 2019). The goal of insurgency is to confront and overthrow an existing government for the control of power, resources or for power sharing (Helleesen 2008). The Merriam Webster Dictionary defines Insurgency as a condition of revolt against a government that is less than an organized revolution and that is not recognized as belligerency (Merriam Webster n.d.). According to Encyclopaedia Britannica, the term 'insurgency' is historically restricted to rebellious acts that did not reach the proportions of an organized revolution. It has subsequently been applied to any such armed uprising, typically guerrilla in character, against the recognized government of a state or country (Britannica n.d.). Within this work, we shall be restricting our definition of insurgency to the latter part of the term which historically restrict insurgency to rebellious acts that did not reach the proportions of an organized revolution. It has subsequently been applied to any such armed uprising, typically guerrilla in character, against the recognized government of a state or country (Encyclopedia Britannica n.d.). For instance, in Nigeria, the

rising wave of insurgency has claimed many lives, destroyed sources of livelihood, and created a climate of perpetual fear and insecurity across the country (Odomovo 2014).

2.2 Armed Conflict

Armed conflict has been defined as a 'state of open hostilities between two countries, or between a country and an aggressive force' (Connable et al. 2010). As defined by the International Committee of the Red Cross (ICRC), International armed conflict refers to a conflict or hostilities between two sovereign states while non-international conflict refers to hostilities between state forces and non-governmental armed groups (The ICRC 2008). This study will principally dwell on non-international armed conflict as the nature of the conflict being discussed within this work is of a non-international kind. The International Humanitarian Law further distinguishes two types of armed conflicts, namely:

- i. international armed conflicts, opposing two or more States, and;
- ii. non-international armed conflicts, between governmental forces and non-governmental armed groups, or between such groups only (The ICRC 2008).²

2.3 Environment

Environment refers to the complex interplay of physical, social, political, and economic factors within a region or area affected by warfare and insurgent activities (Mouritidis 2021). It encompasses not only the natural surroundings but also the human-made structures, populations, and dynamics that influence and are influenced by conflict. Thus, environment is characterized by instability, insecurity, and often widespread violence, shaping the behavior and interactions of both combatants and civilians. It includes factors such as terrain features, resource distribution, displacement of populations, psychological impacts, and the presence of armed groups, all of which contribute to the unique challenges and dynamics of conflict zones. The Cambridge Dictionary also defines the environment as the air, water, and land in or on which people, animals, and plants live (Cambridge Dictionary n.d.). The environment is defined as consisting of the water, air, forest and wildlife of Nigeria

² IHL treaty law also establishes a distinction between non-international armed conflicts in the meaning of common Article 3 of the Geneva Conventions of 1949 and non-international armed conflicts falling within the definition provided in Art. 1 of Additional Protocol II.

(Constitution (FRN), Sec. 20, 1999). Although the section in question does not set out to define the environment, it clearly lists water, air, wildlife and the forests as the definitive components of the environment which it provides should be protected.

2.4 Armed Forces

Armed Forces refers to the combined military forces of a state which is usually made up the Army, Navy and Air Force of a state. This definition excludes the security forces such as the Police and other paramilitary state. outfits. The Armed Forces Act establishes for the Federation, an Armed Forces which shall be maintained and administered as set out in this Act and comprises the Nigerian Army, the Nigerian Navy and the Nigerian Air Force (in this Act referred to as the “Army”, “Navy” and “Air Force”) respectively (Armed Forces Act, Law of Federation of Nigeria, Sec. 1(1), 2004).

3. Theoretical and Historical Framework

3.1 History of Armed Conflicts and insurgency in Nigeria

Owing to the multi ethnic structure of Nigeria coupled with its religious diversity, the inability to properly manage and harness this diversity among both the majority and minority has led to the mushrooming of several ethnic militias or cultural organizations with a militant slant such as the Bakassi Boys, O’dua People Congress (OPC), The Egbesu Boys; The Ijaw Youth Congress (IYC); and the Movement for the Actualization of the Sovereign State of Biafra among others (Salawu 2010). The emergence of these groups has further driven Nigeria deep into the throes of Insecurity, violence and armed conflicts. Notwithstanding that all of the groups mentioned above have evolved an either full blown or somewhat militant aspect of their activities and operations, none of them have come close to the level of destruction, nation-wide distortions and large-scale armed conflict like the Niger Delta Militants and Boko Haram. We shall discuss both of them briefly here.

3.2 Niger Delta Militancy

Without any doubt, the Niger Delta region is located in the Southern most part of Geo Political Nigeria. It is blessed with numerous natural resources; chief of which is crude oil and natural gas. It accounts for over 80 percent of Nigeria’s foreign exchange earnings. Rather than these

resources translating into wealth and the general wellbeing of the people, it has translated into poverty, a massively degraded environment and as a result, the region wallows in abject poverty. This contrast originates from the contaminated perception of politics as a platform of wealth accumulation (Duruji et al. 2013; Thom-Otuya et al. 2011). Multi-National Corporations, rather than perform their corporate social responsibilities and contribute to the development of the region, have undermined the development of the region and caused massive environmental and economic degradation as oil spills from oil explorations polluted the waters meant for fishing and lands meant for farming. Gas flaring has also diminished agricultural productivity, thereby making the people occupationally displaced and developmentally impotent (Adeyemo 2002). The conditions and feelings of alienation from the long years of abandonment, environmental degradation, coupled with the massive unemployment, destruction of aquatic ecosystem, the alteration of the soil quality, air pollution, socio-economic disorganization, the inconsiderateness of successive governments and exploitation by the oil companies produced a capricious atmosphere in the 1990s, characterized by frustration, anger and aggression that manifested in unconstitutional and violent protests and conflicts in the region (Nwogwugwu et al. 2012). The protests took different dynamic forms and phases. The first phase was between the early and mid-1980s. The agitation actually began as peaceful protests by community development committees of a range of host communities to multinational oil companies (Azigbo 2008). The period saw the adoption of legal actions against the oil companies by the communities affected by reckless oil explorations. The legal actions basically requested for compensations for the destroyed properties by the oil companies.

The agitations were heightened by the massacre of the nine Ogoni leaders and Ken Saro Wiwa in 1995 by the military dictatorship of General Sani Abacha, who had ignored all international and local entreaties and appeals to commute the death sentence of the anarchy overwhelmed most of the Niger Delta region (Folarin 2007). Well-known among the belligerent groups operational in the area were the Niger Delta Peoples Volunteer Force (NDPVF) led by Alhaji Asari Dokubo, Movement for the Emancipation of the Niger Delta (MEND) led by Henry Okah, the Martyrs Brigade, the Niger Delta Vigilante force (NDVF) led by Ateke Tom and the Bush Boys, among others (Duru 2012). The underlying issues of contention by the armed

militant groups were the greater control of the oil resources in the Niger Delta region by the people, fair allocation of the revenue from oil exploitation, ending the oil spills and gas flaring, compensation for the decades of ecocide, as well as ensuring the physical and infrastructural development of the region.

The activities of the groups in the Niger Delta manifested in diverse ways such as militancy, kidnappings, killings, bombing, hostage taking, demolition of oil and gas facilities, pipeline vandalization and illegal oil bunkering (Duruji et al. 2013; Thom-Otuya et al. 2011). The militants launched attacks on the Shell Petroleum Development Corporation (SPDC), and other petroleum exploration companies in Nigeria (Percival 2010).³ The sophistication of the weapons plus the dexterousness of their operations questioned the security apparatuses of the Nigerian State. Despite the seeming prevailing calmness of the region at the moment, as regards the issues of terrorism, the outstanding issues of resource control and allocation, poverty alleviation and environmental security remain potential sources of explosive situations (Asuni 2009).

3.3 Boko Haram

Incidentally, while the amnesty package, and rehabilitation of the Niger Delta militants were beginning to mitigate the situation in the country, the Boko Haram uprising began. As a result of the agitations by the Niger Delta Militants, there were huge ecological and environmental prices to pay. Massive oil spills, destruction of marine life, pollution of water bodies and sources, destruction of the livelihood of the local people who relied and depended upon the rivers to survive was the order of the day. The Boko Haram insurgency started as an insignificant agitation of an Islamic sect with a strange commitment to non-conformist standards of social organization in Muslim-dominated Borno State (Felter 2018). Unlike the militants in the Niger ^{Delta} that were driven by purely economic goals, Boko Haram is driven by proclivity in religious conviction, political aspirations and social practice however, its

³ They equally damaged a rescue helicopter sent to rescue employees, killed naval officers, injured soldiers, attacked police stations like the Mini-Okoro Elenlewo, killed some officers on duty, attacked five-star hotels, and carried out a bomb attack on the Eagle Square, Abuja on October 1, 2010 during the fifty-year anniversary of independence.

ultimate goal is to make Nigeria an Islamic State and uphold only the laws set out in the Koran (Walker 2012). This group believes Islam detests western civilization and that western education is blasphemous. Literally, “Boko Haram” means ‘western education is a sin’ or “forbidden”. /Boko Haram is thus an Islamist insurgent group that arose from political, social and religious discontent within the Nigerian State³⁴. The recruits of the sect are mostly youths from the northern parts of Nigeria that are dissatisfied with the economic, political and social status quo. They include unemployed youth, stark illiterates, and refugees from neighboring African countries. Thus, the sect takes undue advantage of the socio-economic challenges of the country to recruit and radicalize its members (Nicoll 2011).

Most of the attacks of the sect have been focused at the state, its institutions, and the civilian populations. It has launched attacks on military institutions such as military barracks, police stations (including the Force Headquarters in Abuja); it has also swooped on educational institutions at all levels, government establishments, places of worship (both churches and Mosques) (Reuter Abuja 2012). The escalation of Boko Haram’s terror began in 2009 after the extrajudicial killing of Mohammed Yusuf also known as Ustaz Mohammed Yusuf the originator of Boko Haram sect. Strong military action against the sect by the Nigerian security forces bred fear in the minds of the surviving members who fled to neighboring countries such as Niger, Algeria, Mali, Chad and Somalia for reinforcement and support from external jihadist groups such as al Qaeda in the Islamic Maghreb (AQIM) and Harakat al-Shabaab al Mujahideen (Al-Shabaab) (Igwe 2021). Boko Haram got trainings on kidnapping, suicide bombings, bomb making, the use of internet for propaganda and the use of Improvised explosive devices (IEDs) and other explosives. From 2014, there was a shift in the sect’s operations from unconventional guerrilla warfare tactics (Aghedo 2015) to the use of asymmetric assaults against agencies of government and civilians (Sunday et al. 2021). The internationalization of the sect from the same period also expanded its sources of funds and support for its activities. Boko Haram funds its escalating terror through bank robberies, extortion, payment of protection fees by government figures and illicit trafficking of arms and drugs as well as kidnappings for ransom (Attah 2019). While the Niger Delta militancy was a struggle for equity, that of Boko Haram has been a struggle for the control of the state and superiority over the security forces. This study will pay greater attention to the Boko Haram

insurgency while using its effect in the North Eastern part of Nigeria to measure and properly access the impact of insurgency and armed conflicts on environmental degradation in Nigeria. This study will demonstrate that the effects of the Boko Haram insurgency in Northern Nigeria has not only been the loss of lives and properties but also a massive degradation of the environment owing to the incessant insurgency and resultant armed conflicts that have engulfed the North Eastern region.

4. The Relationship between Armed conflict and Environment

As stated above,⁴ the environment to include the air, water, and land in or on which people, animals, and plants live. The reason for our dwelling on this definition is a result of the fact that the Constitution sits at the top of the hierarchy of laws which are aimed at providing any form of environmental protection available in Nigeria. This definition definitely encompasses every single aspect of the world in which we live excluding ourselves as human beings. The trio of water, land and air perfectly summarises the very foundation and basis for our continued existence and survival. In view of this, it becomes clear that protecting and preserving the environment is at the very root of human existence as any damage done to the environment will always have huge repercussions. It is without controversy that in armed conflicts, priority is given to the protection and preservation of human lives and property while concerns over the environment is relegated to the background. This can be deduced from the views of Roos Boer and Wim Zwijnenburg, who observed thus:

...Research by the British NGO Action on Armed Violence (AOAV) indicates that when these weapons are used in towns and cities 9 out of 10 victims are civilians. At the same time, conflicts in Iraq, Syria, Ukraine and Yemen have also demonstrated the wider impact of armed violence on environmental infrastructure and people depending on it (Boer et al. n.d.).

As such, it is only where there is an eruption in humanitarian crisis or violent conflicts that attention is drawn to armed conflicts (Cusato 2021). While we will not argue that human lives and property should not be prioritized in such situations, it should be known that the

⁴ See, S. 20 of the Nigerian Constitution 1999.

population largely depend on the environment, and therefore the destruction of the environment and the natural resources is almost the destruction of human means of existence. This automatically implies that the environment needs to be protected at all costs if our collective human existence should continue and thrive. This is because the destruction of the environment is a clear indication of jeopardizing the future and therefore puts livelihood security at risk. In many instances, the environmental and ecological impacts of the armed conflict or insurgency extends over large land areas and continues for years or even decades after hostilities between the warring parties have finally ceased. This implies that the degradation of the environment occurring during hostilities remains and its effect continues long after the armed conflict or hostility may have ceased. The destruction or degradation of the natural environment during armed conflict may have serious humanitarian repercussions. These repercussions include but are not limited to the contamination of water sources as a result of the need to make water available to the warring parties or sometimes as a means to inflict pain on the enemy. Its consequences also extend to the contamination of the soil for wild crops and vegetation owing to the use of certain weapons, chemicals, explosives and military machinery in the course of armed conflict.

The devastating effects of armed conflict on the environment equally includes the destruction of bio diversity and depletion of wildlife populations and native species and the destruction of forests and agricultural produce. These effects of warfare and armed conflict on the environment enumerated above may threaten the well-being, health and survival of entire populations for extended periods of time (ICRC, 2011). As a result of the Boko Haram insurgency as well, so many buildings, vehicles, human lives, farms, body of waters and forests were destroyed, set ablaze or polluted (Ishaq et al. 2019). This has significantly affected the environment and means of livelihood. Some areas remain impenetrable because mines were buried in such areas making it dangerous for the living organisms in the area. According to Abdulkarim Umar, 'the natural environment has a crucial role in providing livelihood and prosperity once the conflict has ended, thus it should indeed be a precondition of post-conflict reconstruction' (Ishaq et al. 2019). Destruction of the environment natural resources such as water, soil, trees, and wildlife are the "wealth of the poor," their damage and destruction during armed conflict can undermine livelihoods, act as a driver of poverty

and forced migration, and even trigger local conflict it is therefore thought to negatively impact the prospects for durable peace. For instance, large and productive areas such as the area of Lake Chad where large population depends on for food and income have been threatened by the Boko Haram insurgency as the means of livelihood have been destroyed while the population fled the area (Ishaq et al. 2019). Disturbances to ecosystems - whether caused directly, indirectly, deliberately, or incidentally - has the potential to cause problems far beyond the initial damage inflicted by conflict' (Umar 2020).

Over-exploitation of natural resources is often directly linked to armed conflict, and occurs for both subsistence and commercial reasons. One immediate result of political instability during war is that local people often cannot grow basic crops (Madu 2019). For their survival, they are increasingly forced to depend on wild foods such as bush meat and wild food plants. At the same time, displaced people usually collect firewood, food plants, and other natural resources in the areas they have moved to. Such exploitation on a large scale may be unsustainable even in the short term. The situation may be made worse if these people lack local knowledge of optimal resource management practices. When displaced people return to their homelands, moreover, they are often forced to rely heavily on natural resources until they can re-establish their normal livelihoods, including agriculture. In addition, humanitarian organizations themselves often use excessive amounts of local wood for construction. Habitat destruction and the accompanying effects it has on human and wildlife are the clear effects of armed conflicts on environment which are generally undertaken for subsistence, strategic or commercial benefits by the insurgents or soldier prosecuting the war. The environment is sometime directly affected through destroying the vegetation in order to ease and improve mobility. The effects of armed conflicts on the environment are inexhaustible and cannot be totally enumerated within this work. However, beyond the effects of armed conflicts and insurgency on the environment is their boomerang effect on the quality of human life and existence as a result of damage to the environment. It is impossible for us to be immune from the implications of danger to the air we breathe, the sea and land which we live off. As a result, protecting the environment is a sure way of protecting and guaranteeing our continued existence.

4.1 Impact of Armed Conflicts and Insurgencies on the Environment

Armed conflicts and military activities can damage the environment, with negative consequences for people and ecosystems. Some of these types of harm are the direct result of how, where, and with what weapons wars are fought; others are the indirect result of the social, political, and economic conditions they create (Human Disarmament 2020). Armed conflicts and insurgencies can have negative impacts on the environment, such as pollution, deforestation, biodiversity loss, land degradation, water scarcity, and climate change (Human Disarmament 2020). These impacts can endanger people's health, livelihoods, and security, both during and after the conflict. As Eliana Cusato further observed, places where cluster bombs and depleted uranium weapons have been widely used, often with association with the idea of 'smart wars'...can seep into soil and groundwater and enter the food chain posing threat that span across time and space (Cusato 2021). (While we have something close to a consensus limiting the use of hardware weapons that may have effects on the environment, (Bagshaw 2023) nothing exists within the Nigerian legal frameworks to address damages done to the environment in the ongoing combat with Boko Haram and other insurgents in the Northeast of Nigeria. The dearth of scholarly literature and legislation in this area gives credence to this paper and the need for further research.

4.2 Impact of Insurgencies on the Environment

Insurgencies, which involve non-state actors fighting against government forces or established authorities, also have environmental consequences. While some of these impacts may overlap with those of armed conflicts, insurgencies often have distinct characteristics:

- i. **Illegal Resource Exploitation:** Insurgent groups may engage in illegal resource extraction, such as logging, mining, or wildlife poaching, to fund their operations. This can contribute to habitat destruction, biodiversity loss, and resource depletion.
- ii. **Clandestine Agriculture:** Insurgents might engage in clandestine agriculture, including activities like slash-and-burn farming, to sustain themselves. This can lead to deforestation, soil degradation, and loss of biodiversity.
- iii. **Ecological Sanctuary:** Some insurgent groups establish bases or hideouts in ecologically sensitive areas, which can result in habitat destruction and disruption of local ecosystems.

- iv. Environmental Degradation for Tactical Advantage: Insurgents might destroy infrastructure, such as roads, bridges, and power plants, to hinder government forces. These actions can lead to pollution, habitat destruction, and long-term disruptions to local communities.
- v. Contamination of Local Governance: Insurgencies can undermine local governance structures, making it difficult to enforce environmental regulations and conservation efforts. This can exacerbate environmental degradation.

5. The Role of Environmental Protection Laws in preventing damages caused by Armed Conflicts and Insurgencies on the Nigerian Environment

Environmental protection laws play a crucial role in preventing and mitigating the damages caused by armed conflicts and insurgencies on the Nigerian environment. These laws provide a framework for regulating human activities that could harm the environment, and they can be particularly important during times of conflict and instability. In the context of Nigeria, where both armed conflicts and insurgencies have been ongoing concerns, effective environmental protection laws are essential for minimizing environmental damage and promoting sustainable recovery. Here's how these laws can contribute:

- i. Prohibition of Harmful Activities: Environmental protection laws such as NESREA Act,⁵ Harmful Waste (Special Criminal Provisions) Act⁶ typically prohibit activities that can cause pollution, habitat destruction, and resource depletion. These laws can deter combatants from engaging in activities that could lead to environmental harm, such as the destruction of infrastructure, oil spills, and illegal resource extraction. The definition of 'harmful waste', for instance, is not wide enough to include waste from military combat.⁷
- ii. Regulation of Resource Use: Environmental laws often regulate the extraction and use of natural resources, including minerals, timber, and water. During conflicts and insurgencies, there is a heightened risk of illegal resource exploitation to fund armed

⁵ See, The National Environmental Standards and Regulatory Enforcement Agency Act 2007.

⁶ Harmful Waste (*Special Criminal Provisions etc*) Act Cap HI Laws of Federation of Nigeria.

⁷ See, S. 15, Harmful Waste (*Special Criminal Provisions etc*) Act Cap HI Laws of Federation of Nigeria.

groups. Effective regulation can help prevent unauthorized resource extraction that can further damage the environment.

- iii. **Protection of Biodiversity and Ecosystems:** Environmental protection laws can establish protected areas and conservation measures to safeguard biodiversity and ecosystems. These areas can serve as refuges for wildlife and ecosystems during conflicts and insurgencies, helping to maintain ecological balance even in turbulent times.
- iv. **Disaster Preparedness and Response:** Environmental laws such as NOSDRA Act 2006⁸ include provisions for disaster preparedness and response. During conflicts, the risk of environmental disasters, such as oil spills or chemical releases, may increase. Adequate disaster response mechanisms can help contain and mitigate these incidents to minimize their impact on the environment.
- v. **Remediation and Restoration:** Environmental protection laws such as the NESREA Act require parties responsible for environmental damage to take steps to remediate and restore the affected areas. This can include cleaning up pollution, replanting vegetation, and restoring damaged ecosystems. Such requirements can promote post-conflict environmental recovery.
- vi. **International Obligations and Accountability:** Nigeria is a signatory to various international environmental agreements, such as the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity. Environmental protection laws can help ensure that the country fulfils its international obligations to protect the environment, even during times of conflict.
- vii. **Collaboration and Coordination:** Environmental protection laws can facilitate collaboration and coordination among various stakeholders, including government agencies, non-governmental organizations, and local communities. In the context of armed conflicts and insurgencies, effective collaboration is essential to manage and mitigate environmental impacts.

In the context of Nigeria, effective enforcement of existing environmental protection laws and the development of comprehensive strategies that integrate environmental concerns into

⁸ See, The National Oil Spill Detection and Response (Establishment) 2006.

conflict and security planning are essential. This includes training and capacity-building for relevant authorities, promoting cooperation among stakeholders, and raising awareness about the importance of safeguarding the environment even in times of conflict.

6. Challenges to Effective Enforcement of Environmental Regulations in Nigeria

There is a great wall of difference between policy rhetoric and the behavioral practice on the ground as a result of many challenges which hamper effective enforcement of environmental regulations in Nigeria and these are as follows:

- i. Out dated laws - some environmental laws such as forestry laws are outdated which stipulates fines of few Naira to offenders. This makes the enforcement of such laws ridiculous.
- ii. Environmental regulations and enforcement come with high cost for businesses and industries. Many businesses and industries cannot operate in an environment with high environmental standard regulations. This makes many developing countries like Nigeria to lower its environmental standard and tolerate environmental pollution and destruction of its environment as seen in the continuous flaring of gas in Niger Delta area of Nigeria.
- iii. Lack of enforcement or effective enforcement of environmental regulations has led to the proliferation of illegal activities in the environment ranging from illegal mining, illegal exploitation of timber and forest resources and poaching of endangered species of wildlife as well as violation of urban plan regulation on location of petrol filling station and GSM mast among others.
- iv. Weak institutional capacity - the enforcement institutions lack the necessary measurements of environmental performance due to low levels of technology and weak capacity to enforce environmental regulations.
- v. Poor governance - lack of political will. The government has not demonstrated the seriousness required to effectively enforced environmental regulations.
- vi. Vested interest mostly by people in position of authority and as such, they will rather prefer to look the other way around because enforcing the regulations will jeopardize their interest.

- vii. Absence of rule of law – the dominance of informal institutions in the country often makes formal law to be disregarded, or at most considered less important. This high degree of informality contributes to the high levels of corruption and informal patronage in structuring political power. Also, policies and institutions on the environment, where they exist, treat environmental challenges with daunting levity.
- viii. Non ratification and implementation of PERAC. The UN principle on the Protection of the Environment in Relation to Armed Conflicts (PERAC) adopted on December 7, 2022, is the latest principle on the safety of the environment in relation to armed conflict. The principle aims to minimize the environmental impact of armed conflict and promote sustainable peacebuilding. However, States are not required by law to adopt the new PERAC principles, and Nigeria has not ratified nor implemented its provisions (UN General Assembly 77th Session 2022-2023).

7. Protection of the Environment in Relation to Armed Conflict

The first instance of widespread public attention to environmental damage caused in armed conflicts was sparked by the United States' use of the toxic herbicide Agent Orange during the Vietnam War (Boer et al. n.d.). Since then, the burning of oil wells during the Iraq-Kuwait war (1990-91), the chemical contamination following the bombing of industrial sites in Kosovo (1999), and the oil leak in the Mediterranean Sea during the Israel-Lebanon war (2006) are only a few examples of environmental harm being caused during an armed conflict. From more than 20 post-conflict observations during the last two decades the UN Environmental Programme (UNEP) has concluded that significant environmental harm is caused during armed conflict (Tanko 2021).

The issue has also been recognized by the International Law Commission. After encouragement from UNEP the topic Protection of the Environment in Relation to Armed Conflicts was put on its program of work at its sixty-fifth session in 2013 (International Law Commission Report, 65th session, UN, 2013). The Special Rapporteur has to date presented three reports on the topic, resulting in a set of draft principles and commentaries provisionally adopted by the Commission (International Law Commission Report, 68th session, UN, 2016). The work is not yet concluded, and several Commissioners, as well as states, have expressed

a desire for the issues of state responsibility and the responsibility of non-state actors for environmental damage caused in armed conflict to be addressed in future reports.⁹

The need for investigating these issues further is also reflected in the suggestion by the Special Rapporteur that “questions on responsibility and liability, as well as the responsibility and practice of non-State actors and organized armed groups in non-international armed conflicts” be addressed in future reports (International Law Commission Report, 68th session, UN, para 152, 2016). The law of armed conflict focuses, perhaps excessively, on inter-state conflicts and that this body of law suffers from “significant normative gaps” when it comes to environmental protection (Okowa 2009). She argues that the restriction to damage which is widespread, long-term and severe, under article 35(3) of the 1977 Additional Protocol I to the 1949 Geneva Conventions, renders the provision inapplicable in most conflicts (Okowa 2009). A further gap is the lack of provisions providing environmental protection in the 1977 Additional Protocol II to the 1949 Geneva Conventions, which applies to non-international armed conflicts. Several other scholars agree that such normative gaps exist (Schmitt 2007) and (Falk 2007). On this note, it has been argued that multilateral environmental agreements (MEAs) concluded in peacetime can serve to fill some of the lacunas presented by protection under the law of armed conflict (Vöneky 2007). The inclusion of the topic Protection of the Environment in Relation to Armed Conflicts on the agenda of the International Law Commission, as well as Resolution 15 approved by consensus at the (UN Environment Assembly in May 2016), indicates that the international community is willing to revisit the question of strengthening the protection of the environment in relation to armed conflict.

⁹ paras 166 and 178 for the opinions of Commissioners. On the meetings of the Sixth Committee on 1 and 2 November during the seventy-first session in 2016, this view was expressed by several States who took the floor on the subject. See for instance the statements by Lebanon, Portugal, Spain, Micronesia (UN Doc. A.C.6/71/SR.28, paras 18, 33, 43 and 59), and Iran (UN Doc. A.C.6/71/SR.29, para 92).

8. Comparative analysis of other Jurisdictions

8.1 Ukraine with Russia (2014-Present)

During the ongoing armed conflict between Ukraine and Russia, there have been instances of environmental degradation, particularly in the eastern regions of Ukraine. The war has caused widespread and severe damage to the environment and inflicted both immediate and longer-term consequences on the human health, ecosystems and the Ukrainian economy and beyond. With a steady barrage of strikes on refineries, chemical plants, energy facilities, industrial depots or pipelines, the country's air, water and soil have been polluted by toxic substances, fires and building collapses, which can cause longer-term health threats like the risk of cancer and respiratory ailments (Ministry of Environment, Ukraine 2022a). Many of these issues can be considered transboundary, so the impacts will not only be felt in in Ukraine but collectively posing serious health risks to the population. The crisis in Ukraine, which is home to some 74000 different species of plants, animals, and fungi, has a significant effect on biodiversity in Europe. Every day the Ukrainian authorities register incidents of exposure to toxic gasses released from explosions, also beyond its borders.

As a result of damage to water supply infrastructure, an estimated 1.4 million people in Ukraine currently have no access to safe water, and a further 4.6 million people have only limited access (OECD 2023). For example, the water supply system from the Dnipro River to the city of Mykolaiv was severely damaged by shelling, cutting access to drinking water for three weeks until basic needs were met by water transported from neighboring regions. As a result, Ukraine has begun enhanced epidemiological surveillance of cases displaying cholera symptoms. Military operations have also resulted in dramatically increased amount of waste. This includes the damaged or abandoned military vehicles and equipment, shell fragments, civilian vehicles, building debris or uncollected household or medical waste. Some of this waste is toxic, including shell fragments, medical waste, or building debris containing asbestos, PCB and heavy metals, and will require special handling, transport and disposal (OECD 2023). The nature and ecosystems also suffer. The Ukraine authorities estimate that due to Russia's military activities, 900 protected natural areas of Ukraine have been affected and an estimated 1.2 million hectares, or about thirty percent of all protected areas of Ukraine, suffer from the effects of war (Ministry of Environment, Ukraine, 2022b). Forests have been

destroyed by fires from shelling and through misuse by the Russian forces, many being littered with destroyed or abandoned military vehicles. Serious negative impacts are inevitably arising from the use of weaponry which can bring acute and long-term environmental health impacts. Direct public health risks are caused by exposure to hazardous substances contained in the ammunition remains which leak toxic substances into the soil and affect surface and groundwater quality. Risks come from munitions-linked heavy metals, energetic compounds, such as trinitrotoluene (TNT), hexogen (RDX), and propellants from missiles and rockets (Pax for Peace 2023). The large numbers of abandoned or damaged military vehicles contain toxic materials which pose the risks for civilians and environment and would require careful handling during collection and disposal.

8.2 Libya

Libya has experienced a series of armed conflicts, including the 2011 civil war that led to the ousting of Muammar Gaddafi. These conflicts have had severe environmental consequences prominent amongst this is Oil Fires and Pollution. During the Libyan armed conflicts, oil facilities and storage tanks were being targeted, resulting in oil fires that release large amounts of pollutants into the air. These fires led to air pollution, health problems, and long-term ecological damage. Similarly, the armed conflict and political instability hindered efforts to manage and mitigate desertification, which is a major environmental concern in Libya. This led to land degradation due to conflict-related activities, such as military operations and displacement, exacerbates desertification. In June 2020, at least 130 people, mostly civilians, were killed by landmines and abandoned or unexploded ordnance in Libya after the armed group called the Libyan Arab Armed Forces (LAAF) withdrew from Tripoli's southern suburbs (Human Rights Watch 2022). Fighters affiliated with the group, commanded by Khalifa Hiftar, and foreign fighters from Russia emplaced banned antipersonnel mines, including victim-activated improvised explosive devices (IEDs) and booby traps in Tripoli's southern suburbs, as they withdrew. There was the challenge of waste Mismanagement due to breakdown of infrastructure and governance during the armed conflicts. This resulted in the accumulation of waste, including hazardous materials, land mines, causing pollution and health risks. The Libyan armed conflicts can lead to the destruction of critical infrastructure, including power plants, water treatment facilities, and transportation networks. This caused

disruption to essential services leading to long-term environmental and health impacts. The armed conflict had a huge impact on cultural Heritage in Libya which is rich in historical and archaeological sites. The damage and destruction of these sites, impacted cultural heritage and the environment in the process.

8.3 Vietnam War (1955-1975)

There was scale crop destruction, destruction of food stores, the destruction of hospitals, and large-scale population displacements; in short, the massive, intentional disruption of both the natural and human ecologies of the region (Green Left 2018). The Vietnam War had severe environmental consequences due to the widespread use of herbicides like Agent Orange by the U.S. military. An estimated 72.4 million litres or 100,000 tons of herbicides were sprayed on South Vietnam, affecting 43 percent of the cultivated area and 44percent of the total area (Green Left 2018). Seventy per cent of the south's coconut groves and 60 percent of its rubber plantations were destroyed, together with 110,00 hectares of forest and 150,000 hectares of mangroves, along with enough crops to feed 2 million people. It has also been claimed that 43 percent of the south's plantations and orchards were destroyed, and 44 percent of the forest wealth (Green Left 2018). The use of toxic herbicides such as Agent Orange during the Vietnam war, caused deforestation, soil erosion, and health problems for millions of people. These chemicals defoliated large areas of forests and vegetation, leading to soil erosion and loss of biodiversity. The destruction of forests also affected watersheds and contributed to flooding and landslides. Additionally, the bombing campaigns during the war caused soil compaction, further exacerbating erosion and affecting agricultural productivity. The war involved the greatest expenditure of bombs and shells in history. Between early 1965 and mid-1968, over 2.5 million tons of bombs were dropped on South Vietnam alone more than were dropped in all theatres of World War II by all sides (Green Left 2018). In total the US fired some 10.2 million tons of munitions in South Vietnam, and 11.3 million tons in all of Vietnam. Westing estimates that around 100,000 hectares, or someone percent of the forest lands of Vietnam, were completely obliterated by bombing and that a further 5 million hectares, or over 40 percent, were damaged (Green Left 2018). Much of this damage was due to shrapnel, a significant cause of tree mortality because it gives access to fungus and decay. The shrapnel

remains a hazard in sawlogs today. Bombing on such an enormous scale was a significant contributor to devastation of the natural eco-system.

8.4 U.S. Iraq War (2003-2011)

The Iraq War led to various environmental issues, including the burning of oil wells and sabotage of oil infrastructure. The burning of oil wells during the Iraq-Kuwait War, which resulted in air pollution, acid rain, and oil spills that affected wildlife and human health (Gupea 2017). The deliberate setting of oil wells on fire released massive amounts of pollutants into the air, leading to air pollution and health risks for local populations. The destruction of water treatment facilities and sewage systems contributed to water contamination, posing health hazards to civilians. The use of depleted uranium in munitions also raised concerns about radioactive contamination of soil and water sources. The sand particles in Iraq contain toxic substances, which dates back to the pollution caused by military actions that disassemble the desert sands and turn it into light dust which affect most Iraqi cities (Al-Shammari 2016). The presence of depleted uranium (DU) in the Iraqi food chain is documented by measuring the uranium in animal's organs in different Iraqi cities with the highest concentration in the south of Iraq. One of the major sites of pollution in Iraq is the Al-twaitha nuclear research site where nuclear research reactors were destroyed in the 1991 Gulf War (Al-Shammari 2016). Barrels containing radioactive materials and sources were stolen from the site in the 2003 war. This resulted in considerable radioactive pollution at the site and in its surrounding areas. Soil sample have been found to be contaminated by Cs-137 and Co-60 (Al-Shammari 2016). Cancer and birth defects are most associated with the environmental pollution caused by the conflicts. Also, an attack by ISIL/Da'esh (Islamic State of Iraq and the Levant) in northern and western Iraq led to vast jet-black plumes of smoke curling upwards into the sky, blocking out the sun. Crude oil flowing through the streets (UNEP 2018). These were some of the environmental footprints resulting from the ISIL attack. Oil wells and mineral stockpiles were torched, particularly during the Mosul offensive in the spring of 2016. Water barrages were blown up. So thick were the clouds of smoke that for the inhabitant's day became night.

9. Conclusion

Armed conflicts and insurgencies have poised great challenges to both States and individuals alike in cases of warfare. Human lives lost, weapons utilised and the environment have caught the attention of scholarly literatures. However, in Nigeria, cases of armed conflicts and insurgencies have received great attention from the perspectives of the Niger Delta and the Northeastern part of the country. The level of militancy and youth restiveness in the oil rich Niger Delta and efforts to eradicate the Boko Haram has continued unabated leaving behind a carnage of used and unused weapons that have the tendencies of causing harm to the environment. The degradation of the environment and the impacts on the areas of armed conflicts and insurgencies has been monumental. Whereas there are avalanche of environmental legislation and regulations as well as the Nigerian Constitution to address environmental issues in Nigeria, the practicality in addressing damages from armed conflicts and insurgencies is non-existent. The paper therefore concludes by recommending a reform of existing legal frameworks, particularly the NESREA Act 2007 and the Harmful Waste (Special Criminal Provisions ETC) Act, to include the impacts arising from armed conflicts and insurgencies in Nigeria's areas of conflicts.

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