

THE LIMITS OF STRICT LIABILITY FOR ENVIRONMENTAL POLLUTION IN NIGERIA: TOWARDS AN ABSOLUTE LIABILITY FRAMEWORK

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ABSTRACT

Environmental pollution arising from petroleum operations continues to pose significant challenges to environmental governance and access to justice in Nigeria. Despite the frequent invocation of the rule in Rylands v. Fletcher, affected communities often encountered considerable difficulties in obtaining effective remedies for environmental harm. This raised an important question: whether the doctrine of strict liability, with its recognised exceptions and defences, remained an adequate framework for addressing pollution resulting from inherently hazardous petroleum activities. This article examined the suitability of strict liability within the Nigerian context and evaluated the case for adopting an absolute liability regime. The paper employed a doctrinal legal methodology, drawing on judicial decisions, statutory provisions, and relevant international instruments. Comparative

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insights were derived from developments in international environmental law and the principle of absolute liability articulated in M. C. Mehta v. Union of India. The analysis demonstrated that while strict liability represented a significant departure from fault-based liability, its practical effectiveness in environmental pollution cases was undermined by doctrinal limitations that diluted accountability and restricted access to compensation. These limitations were particularly evident where environmental harm was extensive, long term, and difficult to attribute within conventional liability frameworks. The article argued that a carefully designed regime of absolute liability would provide a more coherent basis for allocating responsibility for hazardous petroleum activities. It further contended that liability reform should be supported by complementary institutional mechanisms, including environmental remediation and compensation structures that facilitated timely redress and ecosystem restoration. The article concluded that strengthening environmental accountability in Nigeria required not only regulatory reform but also a reconsideration of the liability principles that underpinned environmental governance.

Keywords: *Absolute Liability, Strict Liability, Environmental Pollution, Petroleum Operations, Environmental Governance.*

1. Introduction

The quest for legal redress regarding environmental harm in Nigeria remains a challenging enterprise for practitioners and victims alike. While claimants frequently anchor their cases in the tort of negligence, the practical hurdles involved in demonstrating fault present a persistent barrier to justice.¹ Proving the existence of a duty of care, identifying a breach, and establishing a causal nexus between an operator conduct and environmental degradation often requires an evidentiary burden that many plaintiffs cannot sustain.² This reliance on fault based systems within an era of high stakes commercial activity arguably generates a

1. AG Eze, 'The Limits of the Tort of Negligence in Redressing Oil Spill Damage in Nigeria' Nnamdi Azikiwe U.J Int'l L. & Juris. (2014) 5, 50

2. I Obadina, 'Beyond Torts to Environmental Right: A Need for Institutional and Judicial Reforms for Environmental Protection in Nigeria' Journal of International Law and Jurisprudence (2021) 12(1)

significant liability gap. Within this space, victims of pollution are frequently left without adequate recourse because the existing framework fails to account for the systemic nature of industrial risk.³

Central to this discourse is the doctrine of vicarious liability, which occupies a precarious position in Nigerian law. Following the Supreme Court ruling in *IfeanyiChukwu (Osondu) Co Ltd v Soleh Boneh (Nigeria) Ltd*,⁴ the prevailing judicial approach has remained notably narrow. Courts continue to favor a classical interpretation that mandates proof of a servant personal tortious conduct before a master can be held accountable.⁵ This orientation stands in sharp contrast to more expansive international trends which increasingly ground vicarious liability in social policy and the fundamental need for victim compensation rather than on outdated notions of command or implied authorization.⁶ Consequently, the current framework places an undue burden on the plaintiff to litigate the nuances of internal employment relationships instead of focusing on the broader risks generated by the enterprise.

Some observers might suggest that current regulatory frameworks, when combined with established common law duties of care, provide a sufficient balance between industrial growth and environmental protection. However, this position appears increasingly inadequate when confronted with the realities of modern environmental disasters. The application of the *Caparo* criteria, originally designed for distinct bilateral relationships, often falters when transposed onto the opaque operations of parent companies and their subsidiaries.⁷ Furthermore, while the Oil Pipelines Act 1956 nominally imposes strict liability, its practical efficacy is often undermined by evidentiary hurdles that essentially reintroduce fault based requirements.⁸ Such challenges

3. E Onyeabor, *Liabilities and Compensation for Environmental Damage under the Domestic Legal System in Environmental Law: International and Regional African Perspectives on Law and Management* (Springer Nature 2024) 615.

4. *IfeanyiChukwu (Osondu) Co Ltd v Soleh Boneh (Nigeria) Ltd*, (2000) All N.L.R. 604.

5. B Okpeh, 'Modern Approach to the Doctrine of Vicarious Liability' SSRN (2021).

6. HJ Laski, 'Basis of Vicarious Liability' Yale LJ (1916) 26, 105; G Kodilinye, *Commonwealth Caribbean Tort Law* (Routledge-Cavendish 2009)

7. PA Bergkamp, 'Parent Company Liability After Okpabi v Shell' Eur Company L (2018) 15, 112; Wilde, M. (2021). Extraterritorial liability of parent company for the torts of its subsidiary: *Okpabi and Others v Royal Dutch Shell*. *Journal of Professional Negligence*, 37(1).

8. C Van Dam, 'Breakthrough in Parent Company Liability: Three Shell Defeats, the End of an Era and New Paradigms' *European Company and Financial Law Review* (2021) 18(5) 714

highlight the divergence between domestic judicial philosophy and recent transnational litigation, where courts have begun to grapple with whether parent companies should be held to account for the foreseeable harm caused by their local operations.⁹

This article critically examines the erosion of the strict liability rule in Nigeria and evaluates the fundamental weaknesses of the current negligence based framework. By contrasting the restrictive judicial adherence to classical vicarious liability with the urgent demands of contemporary environmental protection, the following analysis demonstrates that existing legal instruments are becoming increasingly incoherent. It is suggested that the current trajectory necessitates a comprehensive reform strategy. This should involve legislative intervention to codify more rigorous standards of strict liability and a simultaneous judicial evolution that embraces more progressive, transnational standards of duty of care. Such a dual approach is essential to prioritize the remediation of harm over the rigid, and often inequitable, pursuit of fault.

2. Conceptualizing Pollution and the Environment

The legal understanding of pollution and the environment in Nigeria suffers from a persistent tension between narrow, anthropocentric definitions and more expansive, impact oriented frameworks found in international law. Article 1(4) of the United Nations Convention on the Law of the Sea 1982 offers a sophisticated, impact oriented perspective. It defines pollution as the introduction of substances or energy that results in, or is likely to result in, deleterious effects. This language captures a wide spectrum of harm ranging from damage to living resources and hazards to human health to the hindrance of legitimate marine activities.¹⁰ Such a framework suggests that the marine environment is a complex, interconnected system deserving of protection that extends well beyond individual property boundaries.

9. C De Groot, *The "Shell Nigeria Issue": Judgments by the Court of Appeal of The Hague, the Netherlands' European Company Law* (2016) 13(3); C De Groot, *The "Shell Nigeria Issue": Judgments by the Court of Appeal of The Hague, the Netherlands' European Company Law* (2016) 13(3)

10. *United Nations Convention on the Law of the Sea (UNCLOS)*, 1982

In contrast, domestic legislative efforts in Nigeria have historically favored a more rigid, standard based approach. Section 37 of the National Environmental Standards and Regulations Enforcement Agency Act 2007 defines pollution as the man made or man aided alteration of chemical, physical or biological quality of the environment beyond acceptable limits. While this definition provides a functional regulatory baseline for administrative purposes, it remains inherently restrictive. By focusing on whether specific pre determined thresholds have been exceeded, the NESREA Act arguably overlooks cumulative or systemic ecological harm that does not immediately breach a prescribed limit.¹¹ This divergence between the impact oriented UNCLOS framework and the standard based domestic approach highlights a critical failure in Nigerian jurisprudence. The law seems caught between a system that merely regulates individual thresholds and the urgent need to safeguard the ecological integrity of shared resources.

This conceptual ambiguity becomes even more pronounced when examining the Criminal Code Act, which fails to provide a formal definition of pollution at all. Instead, Section 245 of the Code prohibits the fouling of water sources such as springs, streams and wells, but only when such actions render the resource less fit for the purpose for which it is ordinarily used. This provision is explicitly anthropocentric. It views the environment solely through the lens of human utility rather than as an independent entity.¹² As several scholars have observed, this framework is structurally inadequate for modern environmental management because it ignores the interests of future generations and the inherent value of ecosystems.¹³ Consequently, judicial enforcement remains limited to cases where tangible human use is hindered. Large scale ecological degradation frequently falls outside the reach of these

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11. TE Kadiri, 'Regulating Land-Based Sources and Activities Causing Pollution of the Coastal and Marine Environment in South Africa, Kenya and Nigeria within the Context of Integrated Coastal Zone Management' (PhD Thesis, 2015); E Onyeabor, *Environmental Law: International and Regional African Perspectives on Law and Management* (Springer Nature 2024)
 12. J Nwazi, 'An Evaluation of Environmental Criminal Liability and Enforcement in Nigeria' *African Journal of International and Comparative Law* (2022) 30(3) 323
 13. SA Dersso and others, 'Revue Africaine de Droit International et Compare' (2026) 38(1)

punitive measures, leaving victims without effective legal recourse.¹⁴

One might suggest that existing legislative instruments, despite their age, provide a flexible mechanism that allows courts to adapt to modern environmental crises through judicial interpretation. However, this view appears increasingly difficult to reconcile with the practical reality of Nigerian litigation. The reliance on dated, property centric doctrines leaves the judiciary with few tools to address systemic harms. A shift in the legal paradigm is required. Moving toward a holistic interpretation of the environment, one that recognizes the ecological function of property and the state duty to protect environmental assets as common property for all humanity, is essential.¹⁵ Without such a reorientation, Nigerian law will continue to struggle with a fragmented paradigm that prioritizes private utility over the survival of ecological communities.

2.1. The Concept of Strict Liability

The doctrine of strict liability, primarily articulated through the rule in *Rylands v. Fletcher*,¹⁶ serves as a cornerstone of private law in Nigeria for addressing environmental damage. This principle finds its genesis in that seminal 1868 House of Lords decision, where the defendant's construction of a reservoir resulted in the catastrophic flooding of the plaintiff's adjacent mine. In that ruling, the court established that any person who brings a dangerous substance onto their land for a 'non-natural' use acts at their own peril and is held strictly liable for any resulting escape.

Consequently, this doctrine imposes an absolute obligation on the occupier to ensure that such substances do not escape and thereby cause harm to others' property. Because this liability does not hinge upon proof

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14. AA Adedeji and RT Ako, 'Towards Achieving the United Nations' Millennium Development Goals: The Imperative of Reforming Water Pollution Control and Waste Management Laws in Nigeria' *Desalination* (2009) 248(1-3) 642; OMO Enakireru and A Etuvoata, 'Examination of the Factors Militating Against Enforcement of Environmental Laws in Nigeria' *Law and Social Justice Review* (2021) 2(1)
 15. MC Wood, *Nature's Trust: Environmental Law for a New Ecological Age* (Cambridge University Press 2013); D Takacs, 'The Public Trust Doctrine, Environmental Human Rights, and the Future of Private Property' *NYU Envtl LJ* (2008) 16, 711
 16. (1868) LR 3 HL 330

of negligence or a breach of a duty of care, it remains arguably the most potent common law tool for addressing environmental pollution. By affirming that the risk-creator must bear the burden of any harm caused by their hazardous enterprise, the court laid the bedrock for a liability framework that Nigerian courts have historically engaged to manage the complex risks associated with industrial activity. This is particularly evident within the petroleum sector, where the accumulation of crude oil and toxic waste is common and demands a stringent standard of safety.

The judicial reception of this rule in Nigeria illustrates a persistent tension between protecting private property and facilitating industrial growth. In *Machine Umudje v. Shell-B.P. Petroleum Development Co. of Nigeria Ltd*,¹⁷ the court applied the rule in *Rylands v. Fletcher* to hold a defendant accountable for the continuous escape of crude oil waste that contaminated the plaintiff's farmlands and ponds. The success of this claim rested on the principle of *res ipsa loquitur*, which effectively shifted the burden of proof to the defendant to explain why the dangerous substance escaped.¹⁸ Similarly, in *Oladehin v. Continental Textile Mills Ltd* (1978), the Supreme Court addressed a scenario where industrial waste escaped from a factory and flooded an adjacent property.¹⁹ The court determined that the storage of large quantities of water for industrial operations constituted a non-natural use of the premises, thereby triggering strict liability.²⁰ These cases collectively established that oil operations, specifically the maintenance of pipelines and storage pits, are considered non-natural uses of land that necessitate high standards of safety.²¹

However, the efficacy of the *Rylands* rule as an environmental remedy remains contested. A significant obstacle arises from the interpretation of the Oil Pipelines Act (OPA). Some legal arguments suggest that the compensation regime provided by the OPA excludes common law

17. (1975) 9-11 S.C. 155 (sometimes cited as (1975) 9-11 S.C. (Reprint) 95 or (1975) JELR 46235 (SC)).

18. G Kodilinye, *Commonwealth Caribbean Tort Law* (Routledge-Cavendish 2009)

19. (1978) 2 S.C. 23

20. E Onyeabor, *Environmental Law: International and Regional African Perspectives on Law and Management* (Springer Nature 2024)

21. AE Okorodas and EP Okorodas, 'To What Extent is *Rylands v Fletcher* Effective in Claims Concerning Oil-Related Environmental Damage in Nigeria?' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* (2025) 16(2) 107

claims for oil spill damage, creating a potential barrier to justice for claimants who prefer to sue under the stricter common law standard.²² Furthermore, the application of the rule has been limited in scope, as it primarily concerns disputes between occupiers of contiguous lands, which makes it less effective for environmental harm occurring in unowned spaces or public waterways.²³ This doctrinal limitation often forces practitioners to navigate an unsettled landscape where the availability of strict liability depends on the specific circumstances of the spill and the court's willingness to interpret the OPA in favor of common law remedies.

The limitations of domestic judicial frameworks were highlighted by the *Bodo Community v. Shell Petroleum Development Company of Nigeria Ltd* litigation,²⁴ which was heard in the English High Court. In this instance, the Bodo community sought compensation for massive oil spills caused by pipeline corrosion, which destroyed local mangroves and water sources. Although the case was litigated externally, it relied on Nigerian tort law to establish liability. Shell admitted liability under the Nigerian Oil Pipelines Act rather than common law strict liability, a strategic choice that arguably allowed the corporation to avoid the broader implications of a common law judgment.²⁵ While the resulting settlement of £55 million provided significant redress, it also underscored a systemic issue: multinational corporations often prefer navigating the narrower statutory framework of the OPA to minimize the risk of being held to the more rigorous, expansive standards of common law strict liability.²⁶

This reliance on a patchwork of dated precedents and narrow statutes reveals a clear liability gap. While *Rylands v. Fletcher* remains theoretically available, its practical application is frequently derailed by

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22. AE Okorodas and EP Okorodas, 'Does the Oil Pipelines Act of Nigeria Exclude Common Law Claims in Respect of Damage Resulting from Oil-Related Environmental Pollution?: A Critique of the Decisions in the Bodo and Ogbu Cases' *Chukwuemeka Odumegwu Ojukwu University Journal of Private and Public Law* (2025) 7(1)
23. Okorodas, A. E., & Okorodas (note 21)
24. [2014] EWHC 1973 (TCC)
25. Okorocho (note 22)
26. C Bright, 'The Civil Liability of the Parent Company for the Acts or Omissions of its Subsidiary: The Example of the Shell Cases in the UK and the Netherlands' in *Business and Human Rights in Europe* (Routledge 2018) 212

jurisdictional debates and the restrictive interpretation of environmental legislation. It may be suggested that the judiciary is capable of revitalizing this rule to better suit contemporary environmental risks, but such a development requires a shift in philosophy. Without a judicial commitment to prioritizing ecological integrity over the protection of extractive industries, the current framework will likely remain inadequate for addressing the systemic nature of modern environmental despoliation.

3. Defences and Exceptions to the Strict Liability Rule

The doctrine of strict liability, as articulated in *Rylands v. Fletcher*, is frequently characterized as an absolute standard, yet its practical application is significantly constrained by a series of established defences. It is arguably a misnomer to label the rule as a "no-fault" liability regime given the breadth of these exceptions, which can effectively dilute the original rationale of the doctrine. In the context of Nigerian environmental litigation, these defences serve as critical mechanisms through which corporate operators often insulate themselves from the financial burden of ecological damage.

3.1. The Act of God

The "Act of God" defence applies when the escape of a dangerous substance is triggered by a natural event of such overwhelming force that it could not have been anticipated or mitigated by human foresight. Historically, this exception encompassed events like earthquakes or severe floods. However, the threshold for this defence is exceptionally high; it must be shown that the natural cause was the sole, independent factor, and that no degree of prudence could have prevented the resulting harm.²⁷

In *Omotayo v. Arbuckle Smith & Co. Ltd.*,²⁸ the court emphasized that such events must be truly exceptional and irresistible. In an era of advanced meteorological forecasting, the invocation of this defence has become increasingly precarious. While major natural disasters may still qualify,

27. CE Nkolo, 'Criminal Liability under the Nigerian Criminal Jurisprudence' *IJOCLLEP* (2022) 4, 72
28. (1954) 14 WACA 515.

the "inevitable" character of such events is often open to challenge. Indeed, as modern climate science highlights the increasing frequency of extreme weather, it may be suggested that the "Act of God" defence should be interpreted with greater caution, particularly where an operator has failed to integrate climate-resilient infrastructure into their projects.²⁹

3.2. Act of a Stranger

When an escape is caused by the deliberate and malicious act of a third party, the defendant may avoid liability under the "Act of a Stranger" exception. This defence is frequently invoked in cases of oil pipeline sabotage. In *Mandraj v. Texaco Trinidad Inc.*,³⁰ the court recognized that an oil company could not be held strictly liable for damages resulting from an unknown third party's deliberate drilling into a pipeline.

Despite this precedent, the defence is not a blanket shield. Contemporary judicial trends, particularly those observed in litigation against multinational oil companies, indicate that the defence will fail if the sabotage was a foreseeable risk that the operator neglected to mitigate. As noted by Hennchen and Adangor, the burden rests upon the operator to prove that they exercised all reasonable diligence to supervise and secure their facilities against such interference.³¹ Simply pointing to the actions of a third party is insufficient; the operator must demonstrate that the act was truly beyond their control and that their security apparatus was not deficient.

3.3. Statutory Authority

The defence of "Statutory Authority" allows an operator to bypass

29. TC Fuhrman, 'Rethinking Force Majeure in the Era of COVID-19: The Ironic Case for More Oppressive Shutdowns' *Journal of Legal Studies* (2021) 29(1) 75; E Onyeabor, *Environmental Law: International and Regional African Perspectives on Law and Management* (Springer Nature 2024)

30. (1969) 15 WIR 251.

31. E Hennchen, 'Royal Dutch Shell in Nigeria: Where do Responsibilities End?' *Journal of Business Ethics* (2015) 129(1) 1; Z Adangor, 'Petroleum Industry Bill 2012 and the Principle of Vicarious Liability of Oil Producing States and Local Government Councils for Sabotage of Petroleum Facilities: Resurrecting an Old Colonial Policy in the Niger Delta Region of Nigeria' *Journal of Law and Conflict Resolution* (2016) 8(1) 1

liability if the activity causing the damage was mandated or permitted by government legislation. In Nigerian practice, this is perhaps the most common hurdle for environmental claimants. Where a project is authorized under statutes like the Oil Pipelines Act, operators often argue that any resultant pollution is an unavoidable consequence of their licensed operations.³²

However, this defence is currently under intense judicial scrutiny. In *Jonah Gbemre v. SPDC*,³³ the court signaled that statutory authorization cannot override the constitutional rights of local communities to a safe environment.³⁴ Legal scholars have increasingly questioned whether the reliance on outdated colonial-era legislation continues to provide a legitimate shield against accountability. It may be suggested that statutory authority should only exculpate a defendant when they have strictly adhered to the environmental standards set out in their license, and that any deviation from these standards should immediately reinstate strict liability.³⁵

3.4. Plaintiff's Default and Contributory Negligence

Liability may be mitigated or eliminated if the damage was caused, or significantly aggravated, by the plaintiff's own actions. The case of *Pointing v. Noakes*³⁶ illustrates this principle: when the plaintiff's property, in that instance, a horse, trespassed onto the defendant's land and consumed poisonous foliage, the defendant was held not liable. The court reasoned that the plaintiff's failure to prevent the trespass was the proximate cause of the loss.

32. AO Ekpku and I Ehighelua, 'Sabotage in the Oil Industry: The Role of the Law' *Environmental Policy and Law* (2004) 34, 274

33. (2005) AHRLR 151

34. N Lawson, 'The doctrine of absolute liability and the right to a safe environment: issues and challenges in the liability of environmental polluters in Nigeria' (2017)

35. HU Agu and others, 'Changing the Narratives in Claims for Water Pollution Damage in Nigeria: From Use of Common Law Tort to Legislative Provisions' *Journal of Environmental Risk, Impact, and Claims* (2026) 38(2) 258-285; I Obadina, 'Beyond Torts to Environmental Right: A need for Institutional and Judicial Reforms for Environmental Protection in Nigeria' *Journal of International Law and Jurisprudence* (2021)

36. (1894) 2 Q.B. 281

In modern environmental contexts, this defence is often applied narrowly. While a plaintiff is expected to act with reasonable care regarding their property, the complexity of modern industrial pollution, such as groundwater contamination, often makes it difficult to attribute damage to the plaintiff's own fault. Where pollution is systemic, the assertion of contributory negligence by corporate polluters is often viewed with skepticism by courts.³⁷

3.5. Consent of the Plaintiff

The principle of *volenti non fit injuria*, that to which one consents cannot be treated as an injury, applies where the plaintiff has expressly or impliedly agreed to the presence of a hazard. This defence posits that if a party knowingly accepts the risks associated with a nearby dangerous operation, they cannot subsequently seek damages for a resulting escape of substances.³⁸

This defence is, however, highly fact-dependent. For instance, in a landlord-tenant relationship where both share the burden of maintaining infrastructure, consent might be inferred. Yet, in the context of industrial oil exploration, it is rarely the case that local communities have "consented" to the degradation of their livelihoods. As observed by Frynas, the application of this maxim in environmental litigation must be tempered by the reality of unequal bargaining power between large corporate operators and vulnerable inhabitants of the Niger Delta.³⁹

4. Why the Old Rule of Strict Liability is Inappropriate in Nigeria

Environmental degradation within Nigeria's petroleum sector is particularly acute in aquatic and coastal environments. Oil spills

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37. NM Ojukwu-Ogba and AO Enabulele, 'The legal protection of groundwater resources in Nigeria' *Malawi Law Journal* (2009) 3(2) 273-300
38. IL Worika and EP Amechi, 'Access to justice for victims of oil pollution in the Niger Delta region of Nigeria: exploring contemporary judicial trends and implications for sustainable development' *JL Pol'y & Globalization* (2023) 134 1
39. JG Frynas, 'Legal change in Africa: evidence from oil-related litigation in Nigeria' *Journal of African Law* (1999) 43(2) 121-150

frequently affect rivers, creeks, estuaries, and mangrove ecosystems that support fishing, transportation, and other socio-economic activities in the Niger Delta. International environmental law increasingly recognises that pollution of the marine environment extends beyond physical contamination to include broader ecological and social consequences that may affect entire communities rather than individual landowners. This reality exposes an important limitation of traditional common law liability rules. Doctrines developed to resolve disputes between neighbouring property owners may be less effective where environmental harm is diffuse, cumulative, and capable of affecting interconnected ecosystems. The challenge therefore extends beyond proving fault or causation in individual cases. It raises a broader question concerning whether existing liability frameworks remain capable of responding adequately to the environmental risks associated with modern petroleum operations.

The rule in *Rylands v. Fletcher* remains a central pillar of Nigerian environmental litigation, yet its continued application to modern ecological degradation is increasingly open to question. While this doctrine was initially crafted to manage isolated instances of escape from private land, it struggles to address the systemic and cumulative impacts of industrial petroleum extraction. Attempting to graft a nineteenth-century English common law principle onto a contemporary, resource-dependent economy has produced a significant liability gap. This mismatch suggests that the doctrine is not merely struggling to function. It appears fundamentally ill-equipped to serve as a reliable loss-distribution mechanism for the environmental harm that currently characterizes the Niger Delta and other industrial hubs.

A primary doctrinal obstacle is the requirement that the defendant must have made a non-natural use of land. This concept, refined in *Rickards v. Lothian*,⁴⁰ remains inherently subjective and hinges upon judicial discretion rather than actual ecological impact. In a national economy where petroleum extraction provides the bedrock of state revenue, courts

40. (1913) 16 CLR 387

have occasionally hesitated to categorize such operations as non-natural. Some jurists argue that because oil production provides a general benefit to the community, it should be viewed as an ordinary or natural use of land.⁴¹ This reasoning creates a dangerous loophole. By characterizing the extraction of crude oil as a necessary price for national development, the law inadvertently legitimizes the very activities that cause catastrophic pollution, thereby shielding operators from the rigorous demands of strict liability.⁴²

The efficacy of the rule is further eroded by the accumulation of common law defences that have encroached upon the doctrine over two centuries. Although the principle is theoretically rooted in no-fault liability, its modern application has become heavily saturated with fault-based reasoning. When operators invoke defences such as the act of a stranger, frequently pleaded as sabotage, or statutory authority, the burden of proof shifts back to the victim in ways that are often insurmountable.⁴³ These exceptions transform a potentially powerful remedial tool into a blunt instrument. Scholarly critique suggests that the multiplicity of these defences ensures that polluters can almost always identify a pathway to escape accountability, defeating the compensatory objectives of the rule.⁴⁴

Furthermore, the requirement of foreseeability, solidified by the House of Lords in *Cambridge Water Co v. Eastern Counties Leather plc*,⁴⁵ has restricted the scope of the doctrine. By importing this constraint, courts have undermined the strict nature of the liability, as victims must now grapple with the complexities of proving that specific environmental damage was a foreseeable consequence of the defendant's activity.⁴⁶ This

41. PD Okonmah, 'Right to a clean environment: The case for the people of oil-producing communities in the Nigerian delta' *Journal of African Law* (1997) 41(1) 43-67; EO Enakireru and AK Anya, 'Environmental Laws as Mechanisms for Protecting Human Rights in African Societies: A Nigerian Perspective?' *AJLHR* (2020) 4 44

42. CJ Okongwu and ES Imoisi, 'Enhancing environmental litigation: The key to sustainable environmental protection in Nigeria' *IRLJ* (2020) 2 116

43. Worika (note 38)

44. EO Nwosu and IC Okoli, 'A Case for the Establishment of Oil Spill Liability Trust Fund in Nigeria' *Novena University Environmental Law Review* (2024) 1; N Ray, 'Lost Yet Present: The Rise and Fall of a Breakthrough-Relevance of Rylands v. Fletcher in the Contemporary Epoch' *LawFoyer Int'l J. Doctrinal Legal Rsch.* (2023) 1 290

45. [1994] 2 WLR 53

46. G Kodilinye, *Commonwealth Caribbean Tort Law* (Routledge-Cavendish 2009)

difficulty is exacerbated in the Nigerian context by the burden of scientific proof, where impoverished victims are often expected to procure expensive technical evidence to challenge multinational corporations.⁴⁷ Even in jurisdictions like the United Kingdom, minimalist implementations of environmental directives, which retain permit and state-of-the-art defences, have demonstrated how such loopholes consistently undercut the goal of absolute accountability.⁴⁸

The persistent use of this anachronistic framework ignores the vast disparity in power and resources between industrial operators and local communities. While some proponents suggest that courts should continue to adapt the rule through judicial activism, such reliance appears increasingly unsustainable.⁴⁹ It seems abnormal to demand that a legal principle formulated when industrial development was in its infancy should govern the complexities of modern hazardous industry. The law should remain dynamic, yet the current adherence to colonial-era principles forces victims to navigate technicalities that have little connection to the reality of environmental destruction.⁵⁰

Ultimately, the rule in *Rylands v. Fletcher* appears fundamentally unsuited to the requirements of sustainable environmental protection in Nigeria. A shift toward legislative intervention, which could impose clear and predictable liability standards, seems more viable than continuing to force a nineteenth-century doctrine to perform a twenty-first-century task. Until the legal framework moves beyond the vagaries of the non-natural use test and the proliferation of defensive loopholes, justice for victims of environmental pollution will remain an elusive goal.

47. JA Adoga-Ikong and others, 'Compensation for Oil Pollution under Nigerian Law and the Problems of the Victims in Assessing the Damage' *Journal of Public Administration and Government* (2021) 3(1) 66-71

48. M Lennan, 'Evaluating the effectiveness of the EU environmental liability and environmental crime directives as implemented by Scotland and the rest of the United Kingdom' *Journal of International Wildlife Law & Policy* (2021) 24(1) 26-3

49. EE Omo and AU Amadasu, 'Pollution as an Unintended Consequence of Industrialization: Proffering Legal Remedies' *LASJURE* (2022) 3 29

50. NG Lawson, '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)

5. The Doctrine of Absolute Liability: Conceptual Foundations and Evolution

The term "absolute" in a legal context suggests a mandate that is conclusive and fixed. When applied to civil liability, it denotes a standard of accountability that operates without the traditional limitations or exculpatory exceptions found in other tortious regimes. While legal dictionaries often define absolute and strict liability as synonymous, both dispensing with the requirement to prove intent or negligence, this characterization obscures a critical doctrinal distinction.⁵¹ For legal practitioners and researchers, it is vital to recognize that absolute liability is a more rigorous standard. It functions as a non-delegable duty, ensuring that enterprises engaged in inherently dangerous activities internalize the costs of their operations, rather than shifting those risks onto the public or the environment.⁵²

5.1. International Regulatory Frameworks

The evolution of absolute liability as a distinct legal concept is closely tied to the regulation of hazardous industrial sectors, most notably in international nuclear law. The 1962 Brussels Convention on the Liability of Operators of Nuclear Ships was a seminal development in this area. Article II(1) of this treaty established that the operator of a nuclear powered vessel is held absolutely liable for any nuclear damage upon proof of the incident, irrespective of fault.⁵³ This regime reflects a policy of "legal channeling," which restricts liability exclusively to the operator. By design, this approach relieves claimants of the burdensome task of establishing negligence, thereby functioning as a social insurance mechanism for those who suffer damage from activities that are inherently perilous.⁵⁴

51. BA Garner, *A Dictionary of Modern Legal Usage* (Oxford University Press 2001)

52. N Lawson, 'The doctrine of absolute liability and the right to a safe environment: issues and challenges in the liability of environmental polluters in Nigeria' (2017)

53. M Hardy, 'The liability of operators of nuclear ships' *International & Comparative Law Quarterly* (1963) 12(3) 778-788

54. PC Szasz, 'The Convention on the Liability of Operators of Nuclear Ships' *J Mar L & Com* (1970) 2 541; N Pelzer, 'Nuclear accidents: Models for reparation' in F Miron (ed), *The Law of Nuclear Energy* (TMC Asser Press 2016) 355

This maritime framework offers a clear contrast to standard tort law. While strict liability, as epitomized by the rule in *Rylands v. Fletcher*, permits defendants to escape liability through specific defences like force majeure or the acts of third parties, the absolute liability regime under the Brussels Convention systematically eliminates these escape routes.⁵⁵ As scholarly analysis suggests, the primary objective of this formulation was to ensure that the creators of extreme technological risks remain financially accountable for the consequences of their enterprise, regardless of the occurrence of unforeseen events.⁵⁶

5.2 The Judicial Innovation in India

The shift from nineteenth-century English tort principles to a more robust, contemporary standard reached a critical juncture in the Indian judiciary. In the aftermath of mass disasters, specifically the 1984 Bhopal Gas Tragedy and the 1985 oleum gas leak in Delhi, the Supreme Court of India fundamentally restructured environmental accountability.⁵⁷ Chief Justice P. N. Bhagwati articulated a new public law doctrine, declaring that common law strict liability was inadequate for the socio-economic realities of a developing nation facing large-scale industrial hazards.⁵⁸

While the Indian judiciary pioneered the transition to this absolute and non-delegable standard, recent global developments reveal a complex, fragmented trajectory in corporate accountability. Courts in the United Kingdom and the Netherlands have increasingly bypassed traditional corporate veil protections by establishing that parent companies may owe a direct duty of care for the environmental impacts of their subsidiaries. A pivotal development in this shift is the UK Supreme Court's 2019 ruling in *Vedanta Resources PLC v. Lungowe*,⁵⁹ which

55. LF Goldie, 'International Principles of Responsibility for Pollution' *Colum J Transnat'l L* (1970) 9 283

56. LA Teclaff, 'Beyond restoration—the case of ecocide' *Nat Res J* (1994) 34 933; GM Jarvis, 'Financial Responsibility for Nuclear Damage' *Chitty's LJ* (1964) 13 286

57. RS Sisodia and K Negi, 'Absolute Liability in India: Union Carbide Analysis and the Road Ahead' *Indian Journal of Legal Review* (2024) 4(2) 337 <<https://ijlr.iledu.in/wp-content/uploads/2024/06/V4I239.pdf>> accessed 3 July 2026.

58. B Parmar and A Goyal, *Absolute Liability: The Rule of Strict Liability in Indian Perspective Manupatra* <<https://docs.manupatra.in/newsline/articles/Upload/2D83321D-590A-4646-83F6-9D8E84F5AA3C.pdf>> accessed 3 July 2026.

59. *Vedanta Resources PLC and another v. Lungowe and others*, [2019] UKSC 20 <<https://www.supremecourt.uk/cases/uksc-2017-0185>>

concerned claims by over 1,800 Zambian citizens regarding toxic effluent discharges from the Nchanga Copper Mine. The Court unanimously permitted the claims against the UK-domiciled parent company to proceed, clarifying that a parent company owes a duty of care to third parties affected by its foreign subsidiary's activities if it exercises significant control, direction, or provides inadequate guidance on health, safety, and environmental standards.

Building upon this, the "assumption of responsibility" test, further refined in *Okpabi v. Royal Dutch Shell*,⁶⁰ has solidified the principle that public commitments to sustainability can create legal accountability, effectively barring the defense that a subsidiary's actions are entirely independent of the parent's influence. Simultaneously, Dutch courts have leveraged the unwritten standard of care under the Dutch Civil Code to hold corporations accountable for global environmental impacts in line with international climate obligations. In *Milieudefensie v. Royal Dutch Shell*,⁶¹ the courts affirmed that corporations bear a legal duty to counter dangerous climate change in alignment with the Paris Agreement, confirming that corporate accountability is no longer confined by the strict boundaries of separate legal personality.⁶²

Conversely, some emerging economies have pursued regressive legislative reforms; for instance, the enactment of the Job Creation Law in Indonesia recently eliminated explicit absolute liability provisions, forcing victims back into the onerous position of proving corporate fault. The amendment to Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management, as modified by Law Number 6 of 2023 (the Job Creation Law), represents a significant shift in Indonesian environmental jurisprudence.

"Everyone whose actions, business, and/or activities use Hazardous and Toxic Materials, generates and/or manages

60. *Okpabi and others v. Royal Dutch Shell Plc and another* [2021] UKSC 3 <<https://www.supremecourt.uk/cases/uksc-2018-0068>> accessed 3 July 2026

61. *Milieudefensie et al v Royal Dutch Shell plc* (District Court of The Hague, 26 May 2021) C/09/571932 / HA ZA 19-379 <https://www.climatecasechart.com/document/milieudefensie-et-al-v-royal-dutch-shell-plc_c3e4> accessed 3 July 2026

62. *Marilang and others*, 'Establishing Omnibus Law in Indonesia: Strict Liability in Environmental Law' *Journal of Legal, Ethical and Regulatory Issues* (2021) 24(1) <<https://www.abacademies.org/articles/establishing-omnibus-law-in-indonesia-strict-liability-in-environmental-law.pdf>>

*Hazardous and Toxic Materials waste, and/or those that pose a serious threat to the environment is strictly responsible for the losses occurred out of its business and/or activity, **without the need to prove the element of fault.**"⁶³*

Following the enactment of the Job Creation Law, the phrase "without the need to prove the element of fault" was removed, and the language was amended to specifically reference losses resulting "from its business and/or activity."⁶⁴

Academics and legal critics note that this deletion effectively removes the "strict liability" character of the provision, shifting the burden back onto plaintiffs to prove fault or negligence. Consequently, while the principle of absolute liability is still nominally discussed in the legal community, the removal of this clarifying clause complicates the ability of victims to seek compensation for industrial-scale environmental damage.⁶⁵ These divergent trends underscore that the efficacy of the absolute and non-delegable standard is ultimately contingent upon whether domestic judiciaries prioritize constitutional environmental rights over property-centric defenses.

5.3. Constitutional and Policy Underpinnings

The judicial adoption of absolute liability in India was not a mere technical refinement of tort law; it was a constitutional project. By integrating the right to a clean environment into the Right to Life under Article 21 of the Constitution, the judiciary established that environmental protection is a fundamental right.⁶⁶ This synthesis serves as a powerful deterrent against industrial negligence and ensures that the

63. *Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management*

64. *Lalu Aria Nata Kusuma, 'Environmental Disputes Without Protection of Strict Liability Principles: Again, Law on Job Creation' Law and Justice (2022) 7(1) 1* <
https://www.researchgate.net/publication/399267764_Environmental_Disputes_Without_Protection_Of_Strict_Liability_Principles_Again_Law_On_Job_Creation>

65. *Ibid*

66. *A Kumar and A Ahirwar, 'Right to Clean Environment and Right to Life under Article 21' Indian Journal of Law and Legal Research (2022) 4(1); A Kar, 'Right to Clean Environment: A Constitutional and Legislative Perspective' International Journal of Law Management and Humanities (2023) 6 382*

financial capacity of the polluter remains the primary source of victim compensation.⁶⁷ Furthermore, this doctrine has gained traction beyond India, with scholars arguing that such a framework provides a necessary pathway for jurisdictions like Nigeria to hold transnational corporations accountable for environmental degradation.⁶⁸ Ultimately, absolute liability represents a conscious move to prioritize the safety and security of the community over the preservation of anachronistic legal protections.

5.4. Connection to Environmental Governance

This doctrinal evolution is central to the broader discourse on sustainable environmental governance. By bridging the gap between historical tortious limitations and the contemporary necessity for victim-centric relief, the principle of absolute liability provides a vital legal bridge. For jurisdictions like Nigeria, adopting this framework would align domestic regulatory efforts with international best practices. It transforms environmental protection from a discretionary industrial policy into a mandatory legal obligation, ensuring that the developmental aspirations of the nation remain fundamentally aligned with the protection of the health and rights of the citizenry.

6. The Doctrinal Evolution: From Strict to Absolute Liability

The legal distinction between strict and absolute liability represents a critical evolution in tort theory. It signifies a movement away from the rigid constraints of nineteenth-century common law toward a framework capable of addressing the complexities of modern industrial risk. Central to this doctrinal shift is the decision of the Supreme Court of India in *M. C. Mehta v. Union of India*. This case carved a transformative path for holding hazardous enterprises accountable. While the traditional rule in *Rylands v. Fletcher* imposes liability for the escape of a dangerous substance brought onto land, it remains hampered by various exculpatory defenses. These include acts of God or the intervention of

67. K Singh and RK Singh, 'Doctrine of Absolute Liability and Its Impact on Industries: A Critical Study' *LawFoyer International Journal of Doctrinal Legal Research* (2025) 3 445

68. N Lawson, 'The doctrine of absolute liability and the right to a safe environment: issues and challenges in the liability of environmental polluters in Nigeria' (2017)

third parties.⁶⁹ Absolute liability, by contrast, functions as a non-delegable duty. It applies exclusively to enterprises engaged in inherently hazardous activities. In these instances, the judiciary effectively eliminates the defensive shields available under strict liability, ensuring that an enterprise cannot escape responsibility by pleading that it exercised reasonable care.⁷⁰

The shift from the strict liability regime to an absolute standard is marked by three distinct departures. First, the requirement of "escape," which involves the physical movement of a hazardous substance from the defendant's land to an external site, is rendered irrelevant (Prashant, 2022).⁷¹ Consequently, victims located within industrial premises, such as employees or contractors, are afforded the same protection as those in the surrounding community. Second, absolute liability applies regardless of whether the land use is natural or non-natural. This is a significant expansion over the *Rylands* framework, which historically distinguished between these two types of land use.⁷² Finally, the Constitutional Bench in *Union of India v. Prabhakaran Vijay Kumar* affirmed that the absolute liability rule is not subject to any common law exceptions. This reinforces its status as a complete and uncompromising standard for hazardous operations.⁷³ This rigidity is intentional. It ensures that the magnitude of damages is calibrated to the financial capability of the enterprise, thereby forcing companies to internalize the full social costs of their undertakings.⁷⁴

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69. A Dhar, 'A Critical Analysis of the Rule in *Rylands v. Fletcher*' *Law Essentials Journal* (2021) 2 108
70. N Agrawal, 'The Rule of Strict Liability and Absolute Liability in Indian Perspective' *International Journal of Law Management and Humanities* (2021) 4 3104
71. Prashant, 'Concept of Absolute Liability and Its Present Legal Scenario' *Indian Journal of Law and Legal Research* (2022) 4(2)
72. R Ratanlal and KT Dhirajlal, *Law of Torts* (26th edn, LexisNexis 2013)
73. B Parmar and A Goyal, 'Absolute Liability: The Rule of Strict Liability in Indian Perspective' *Manupatra* (n.d.) <<https://docs.manupatra.in/newsline/articles/Upload/2D83321D-590A-4646-83F6-9D8E84F5AA3C.pdf>>
74. S Saxena and MU Arriwan, 'The Concept of Punishment in Absolute Liability in India: An Overview' *Multidisciplinary Approach in Research Area* (2024) 9 58

7. Challenges to the Current Liability Framework

The transition toward an absolute liability framework in Nigeria is not merely a theoretical preference. Rather, it serves as a pragmatic response to the systemic failure of current enforcement regimes within the petroleum sector. Despite the existence of various environmental statutes, the Niger Delta remains an ecological catastrophe. The reliance on outdated strict liability rules provides multiple avenues for polluters to evade responsibility. This has allowed industrial actors to operate with relative impunity, shifting the crushing environmental and social costs onto the local population.

7.1. Institutional Deficits and Enforcement Challenges

The primary hurdle to effective environmental governance in Nigeria is a fragmented and incoherent regulatory landscape. As Ambituuni and others highlight, the downstream petroleum industry is plagued by overlapping functions between agencies.⁷⁵ For instance, the National Oil Spill Detection and Response Agency (NOSDRA) and the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) often struggle with clarity regarding compliance and enforcement. This institutional congestion is compounded by a persistent culture of rent seeking and inadequate technical capacity for monitoring pipeline integrity.⁷⁶ Consequently, the current legal framework fails to establish fixed standards of care, leaving operators without the necessary incentives to prioritize safety. When accidents occur, the lack of structured incident management and poor reporting cultures further diminish the prospect of holding corporations accountable.⁷⁷ Brisibe notes that administrative fines under the new Petroleum Industry Act (PIA) often fail to account for current economic realities.⁷⁸ This renders them ineffective as

75. A Ambituuni, J Amezaga and E Emeseh, 'Analysis of safety and environmental regulations for downstream petroleum industry operations in Nigeria: Problems and prospects' *Environmental Development* (2014) 9 43

76. A Ambituuni, JM Amezaga and D Werner, 'Risk management framework for safe transportation of petroleum products in Nigeria: Learning from past accidents and good practices' *Risk Management* (2015) 17(4) 329

77. A Odogun, 'Developing a safety assessment framework for the transportation of petroleum products: A case study of the Nigerian petroleum downstream industry' (PhD thesis, University of Wolverhampton 2021)

78. BV Brisibe, 'Exploring the Legal Challenges to Corporate Environmental Responsibility Regulation in Nigeria's Petroleum Industry' *African Journal of Law and Human Rights* (2024) 8 40

deterrents against major industrial polluters.

7.2, The Human Cost: A Public Health Crisis

The absence of a robust, absolute liability standard carries profound consequences for the public health of rural communities. The environmental degradation linked to crude oil spills and chronic gas flaring is not merely an ecological issue. It is a driver of severe cardiovascular and respiratory morbidity.⁷⁹ Empirical studies have consistently demonstrated that residents in highly polluted zones experience significantly higher incidences of hypertension, coronary artery disease, and stroke compared to those in unpolluted areas.⁸⁰ These health outcomes are intrinsically tied to systemic inflammation and oxidative stress caused by exposure to particulate matter, volatile organic compounds, and heavy metals.⁸¹ In some regions, the prevalence of these conditions is among the highest recorded in Africa, illustrating a clear causal nexus between hydrocarbon pollution and the systematic erosion of the right to health.⁸² Under the current strict liability regime, proving causation in tort is often an insurmountable burden for marginalized victims. The absolute liability standard would effectively remove this barrier by centering the focus on the hazardous nature of the activity.

7.3 Strengthening Accountability through Financial Security

To address the current enforcement gap, Nigeria must integrate Financial

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79. AG Essiet, 'Prevalence and Determinants of Cardiovascular Diseases in Oil Producing Communities in Niger Delta, Nigeria: A Systematic Review' *Port Harcourt Journal of Public Health* (2025) 1(1)
80. MC Ezejimofor, 'The prevalence of hypertension and stroke survivors in the polluted environment: a case study of rural Niger Delta' (PhD thesis, University of Warwick 2016); JN Paul and O Maduka, 'Oil pollution and hypertension prevalence in Rivers State, Nigeria: A comparative study' *International Journal of Noncommunicable Diseases* (2021) 6(3) 102
81. AG Essiet, AA Gordon, IB Inyang and SB Mkpan, 'The Hidden Impact of Hydrocarbon Pollution on Cardio-Metabolic Health in Akwa Ibom State' *Faculty of Natural and Applied Sciences Journal of Applied Chemical Science Research* (2024) 2(1) 58
82. OP Obute, C Frazzoli, KA Aliche, CM Ossai, BD Dooka, B Bocca and OE Orisakwe, 'Cardiopulmonary health effects of oil-and gas-related environmental pollution in the Niger Delta, Nigeria: a systematic review of observational studies' *Air Quality, Atmosphere & Health* (2026) 19(5) 105; CF Wami-Amadi, 'The impact of air borne toxins from gas flaring on cardiopulmonary and other systemic functions' *Scholars International Journal of Anatomy and Physiology* (2025) 8(1) 12

Security Requirements into its legal framework. Corporations should no longer treat environmental cleanup costs as an optional expense.⁸³ Strengthening the PIA 2021 to include mandatory instruments, such as environmental remediation bonds, parent company guarantees, and compulsory liability insurance, would provide an automatic safety net for affected communities.⁸⁴ The adoption of these mechanisms aligns with the Polluter Pays Principle and mirrors successful international models that prevent the divestment of assets to escape liability.

One might argue that existing flexible regulatory frameworks are sufficient to manage these risks. However, such a view underestimates the power imbalance between transnational corporations and impacted communities. Legal scholars have increasingly advocated for broadening the scope of liability to include parent companies. This ensures they cannot hide behind the corporate veil when their subsidiaries cause environmental ruin.⁸⁵ As argued by Ibrahim and others,⁸⁶ these reforms must be coupled with an absolute liability standard that limits available defenses. This would effectively compel industries to internalize the true costs of their environmental footprint. Without such legislative evolution, the *restitutio ad integrum* promised by civil law remains an empty ideal. It leaves the most vulnerable populations to bear the lasting burden of industrial development.

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83. KU Udungeri, 'Corporate Environmental Liability Under the Nigerian Oil and Gas Law: A Critical Appraisal of Environmental Financial Security through the Eye of the Polluter Pays Principle' (PhD thesis, University of Leeds 2024)
84. LL Akpotu, 'Corporate Responsibility and Environmental Justice in Nigeria's Oil Region' in B Daphne (ed), *Corporate Responsibility and Environmental Justice in Nigeria's Oil Region* (2025); IB Ibrahim, A Amuda-Kannike and S Sambo, 'Beyond Compliance: Reimagining Environmental Liability in Nigeria's Petroleum Sector Under the PIA 2021' *The Nnamdi Azikiwe University Journal of Commercial and Property Law* (2026) 13(2)
85. MEle, *Corporate Environmental Responsibility and Pollution Control Laws: The Case of Oil Spills in the Niger Delta* (Taylor & Francis 2025); E Jackson, 'The Case for Eco-Liability: Post Okpabi Justifications for the Imposition of Liability on Parent Companies for Damage caused to the Environment by their Subsidiaries' *LSE LR* (2021) 7 61
86. IB Ibrahim, A Amuda-Kannike and S Sambo, 'Beyond Compliance: Reimagining Environmental Liability in Nigeria's Petroleum Sector Under the PIA 2021' *The Nnamdi Azikiwe University Journal of Commercial and Property Law* (2026) 13(2)

8. Conclusion and Recommendations

This article has examined the continued reliance on the rule in *Rylands v. Fletcher* within Nigeria's environmental liability framework and has argued that the doctrine is increasingly ill suited to the realities of environmental harm arising from hazardous petroleum activities. Although strict liability represented an important departure from fault based liability, its practical operation remains constrained by a range of recognised defences that frequently limit access to effective remedies. In the context of large scale environmental pollution, particularly where harm is widespread, cumulative, and ecologically complex, these limitations create a significant liability gap. The result is that affected communities often bear a disproportionate share of the environmental and socio economic consequences of pollution while operators retain opportunities to avoid or minimise responsibility.

The comparative analysis undertaken in this article demonstrates that the principle of absolute liability offers a more coherent response to the risks associated with inherently dangerous industrial activities. The significance of the doctrine lies not merely in the removal of traditional defences, but in its recognition that entities which profit from hazardous operations should bear the full legal consequences of any resulting harm. While some commentators may argue that the shortcomings of the current framework stem primarily from weak enforcement and institutional deficiencies rather than from the strict liability doctrine itself, this article has contended that the recognised exceptions to *Rylands v. Fletcher* constitute a structural weakness that cannot be resolved through improved enforcement alone. Consequently, a transition towards absolute liability represents not simply a procedural adjustment but a substantive reallocation of environmental responsibility.

To translate these doctrinal conclusions into effective environmental governance, liability reform should be accompanied by complementary legislative, institutional, and judicial measures.

First, legislative reform is required to strengthen the Petroleum Industry Act 2021 by introducing mandatory environmental financial security mechanisms for operators engaged in hazardous petroleum activities.

These should include environmental remediation bonds, compulsory environmental liability insurance, and parent company guarantees to ensure that adequate financial resources are available for environmental restoration and compensation irrespective of fault or the financial status of local operating subsidiaries. Such reforms would reinforce the Polluter Pays Principle by ensuring that the costs of environmental degradation are borne by those who create the risk.

Secondly, institutional reforms should address the existing overlap between the National Oil Spill Detection and Response Agency (NOSDRA) and the Nigerian Upstream Petroleum Regulatory Commission (NUPRC). A unified and transparent reporting framework for oil spills should be established to eliminate duplication of regulatory responsibilities, improve coordination among enforcement agencies, facilitate timely responses to pollution incidents, and strengthen public confidence in environmental governance.

Thirdly, Nigerian courts should adopt a more purposive public law approach to environmental litigation by recognising that environmental protection extends beyond traditional private property interests. Greater emphasis should be placed on the constitutional and human rights dimensions of environmental protection, particularly the right to a safe and healthy environment. This judicial approach would reduce excessive reliance on technical property based defences inherited from *Rylands v. Fletcher* and instead prioritise effective remedies, environmental restoration, and meaningful access to justice for affected communities.

These recommendations complement the proposal for an absolute liability regime by ensuring that liability reform is supported by effective enforcement mechanisms rather than existing only as a doctrinal innovation. International compensation models, including the United States Oil Spill Liability Trust Fund and the International Oil Pollution Compensation Funds, further demonstrate the importance of dedicated remediation and compensation mechanisms capable of delivering prompt environmental restoration and reducing dependence on lengthy litigation. Nigeria should therefore consider establishing a dedicated Environmental Remediation Fund, financed through mandatory industry contributions and linked to clearly defined remediation

obligations.

Ultimately, the case for reform extends beyond questions of legal doctrine. Environmental liability rules determine how the risks and costs of hazardous industrial activities are allocated within society. Where petroleum operations generate substantial private economic benefits but impose significant environmental and social burdens upon vulnerable communities, the law must ensure that those costs are borne by those responsible for creating the risk. A carefully designed regime of absolute liability, supported by robust financial security requirements, effective regulatory institutions, and a progressive judicial approach to environmental justice, would represent an important step towards strengthening environmental accountability and sustainable environmental governance in Nigeria.