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The use of Imprisonment terms as a tool to Sanction Oil and Gas Pollution offence in Nigeria: A determination of the effectiveness of this tool in the USA

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Scholars have argued that Criminal law can be used as a major tool to prevent harm. In China, for example, environmental protection laws provide that certain behaviour such as marine pollution resulting in substantial property loss, injury or death may be dealt with under the criminal law. Hence, pollution crimes (which can cause severe environmental/health harm or even harm to life) can be dealt with using Criminal law.

The exploration and production of oil and gas resources have caused great pollution, and in turn, great environmental and health harm to the Niger Delta region of Nigeria. The pollution is reported to have been mostly caused by oil and gas multinationals operating in the region. Indeed, the extensive nature of the Nigerian oil and gas pollution (together with the enabling statutes that make the offences in its category criminal) makes it the most significant environmental crime in Nigeria.

Interestingly, while Nigeria might have enacted several Environmental-Criminal statutory provisions to deal with these offences, it seems to have continued un-deterred. This is because most of

the sanctioning statutory provisions rather project the use of criminal fines to sanction the offence. Moreover, the nature of criminal fines provided under these enabling statutory provisions is often paltry sums that could be easily paid up by the oil multinationals. Even more, some of the statutory provisions that might have created an option of tougher penalties such as imprisonment terms (even up to life imprisonment) might have not been effectively utilised. This is because Nigeria seems to still be lacking in the criminal prosecution of environmental offences in the oil and gas industry.

This article argues that the use of imprisonment terms constitutes sufficient punishment and an effective means to deterrence. To effectively prove this, the article shall review the usage of this tool in the United States of America (USA), the toughness of punishment imposed under the sentencing and the effectiveness of this tool in deterring oil and gas offence in the USA. Hence, the article suggests a wider use of imprisonment terms on offending corporate officers to prevent environmental harm.

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