THE RIGHT TO ENVIRONMENT UNDER AFRICAN CHARTER ON
HUMAN AND PEOPLES’ RIGHT

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Abstract

‘The issue of human right to environment has been a subject of vigorous discussion’. Today, it seems obvious that human rights and the environment are inherently interlinked. For one thing, the life and the personal integrity of each human being depend on protecting the environment. On the other hand, environmental protection can often be implemented properly when human rights are respected. However, international environmental law scarcely mentions the right to environments.

Therefore, the writer in this article endeavors to examine the recognition and coverage of the human right to environment under African Charter on Human and peoples’ right. In doing so, Part I of this paper presents the concepts of the right to environment and linkage between the issues environment and human rights. Part II explores the right to a general satisfactory environment under African Charter on Human and People’s Right. Part III focuses on Ogoni people case (Social and Economic Right Action Center (SERAC) vs. Nigeria Government), a case decided by the African human right commission concerning the interpretation and application of the right to environment. Then, the article ends with concluding remarks under part IV.

Key words: Human right, public interest litigation, enforcement

PART I: THE RIGHTS TO ENVIRONMENTAL: A CONCEPTUAL FRAMEWORK

1.1 Meaning of the Right to Environment

The exact meaning of the right to environment is not ascertainable. ‘Different terminologies such as decent, viable, healthy, sustainable environment are commonly used when referring the right to environment’. For example, K. Solo defines the right to environment to broadly mean:

- The right, whether of individuals or a group, to a decent environment; and more
- Specifically, such rights as the right to be free from excessive pollution of the land water or air, or pollution, from noise, the right to enjoy an un spoilt nature, and the right to enjoy biological diversity.

As per the above definition the holders of right to environment can be either individuals or groups as the case may be. American convention on human right, for example, vested the right to environment on individuals where the African Charter on human and peoples’ right accords the right collectively to people.

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2 Malgosia, Fitzmaurice, contemporary issue international environmental law (Edward Elgar Publishing Limited,(2009), p170
3 A. Boyle, The role of international human rights law in the protection of the environment’ (1996) p, 50
4 K Solo, keeping a clean environment-the case of Botswana (1999) 6 SAJELP p,237
The definition is also inclusive of major components of the environment such as the air, water and biological diversities. Besides, the definition is of pro-anthropocentrism approach. It is perceived that the environment is nothing other than an element submitted to man and to his necessities and no full rights may be recognized to nature itself.

Coming to legal instruments, African Charter on human and peoples’ right connotes the right to environment as peoples’ right. The relevant provision of the charter reads as follows: ‘‘All peoples shall have the right to a general satisfactory environment favorable to their development.’’

As I have discussed the details of in part three, the right to environment in charter is a collective right to be enjoyed by the peoples. Thus, the right is protected in the charter so long as it is claimed collectively.

The charter has also defined the right to environment from the perspectives of anthropocentrism and hence people have the right to environment favorable to their development, not nature itself enjoys the right.

Despite the above attempts to define the right to environment, we cannot find common censuses on the meaning of the right to environment. This is attributed partly by a protracted debate between Anthropocentrism and Eco-centrism. ‘‘According to anthropocentrism approach, protection and conservation of the environment is not an end by itself. The natural environment is destined to be exploited for the satisfaction of human being and one cannot talk of the environment in isolation of the human person.’’ The proponents of this approach recognize human right aspect of the right to environment. In Eco-centrism approach, however, the environment by itself possesses its own intrinsic value and the protection of the environment exists for its own sake. ‘‘This argument is found on the notion that environment posses a right derived from its own intrinsic value, separate and distinct from human use of the environment.’’

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6 Dr. Dereje Zeleke, lecture note on international environmental law Adiss Ababa University (2013)

7 LE Rodriguez Rivera, ‘is the human right to environment recognized under international law? It depends on the source, journal of Colorado international environmental laws and policy vol. 12 , (2001)
Therefore the proponents of this view argued that environmental protection should not be included in the human rights. “The goal of environmental protection to promote quality for human life is inherently defective since its emphasis is on human beings, whereas the protection of our global ecosystem extends beyond that of humanity”. Furthermore, proponent of Eco-centrism approach objected the recognition of independent human right to environment because it is thought that they are already sufficiently provided for by international environmental law. It is maintained that human being is the ultimate beneficiary of successful implementation of international environmental law. “Therefore, it is redundancy to provide the human right to environment in human right instruments.” All these combined together accentuate the difficulties both in defining the right to environment and ascertain the contents therein.

1.2. The Link between Human Right and Environment

Environmental protection and human right have linkage at various points. There are three main ways one can approach the linkage between human right and environment protection. Firstly, one can look at the existing international environmental law in order to examine whether it provides human rights norms. Secondly, one can study international and regional human rights law and look for the linkage between them. Lastly, we can go through case laws and observe how tribunals and courts handle cases involving allegation of human right and environmental protection. Hence, in the following section I have discussed each of these topics in order to make sure that existing international environmental law, global and regional human rights instrument, or case laws do recognize the linkage between human right and environmental protection.

1.2.1. International Environmental Law

“Despite their separate beginnings, human rights law and environmental law have an important element in common”. “Both of them have intertwined objectives and ultimately strive to produce better conditions of life on earth.” Therefore, it is by now clear that the issue of environment is intrinsically related to a number of other human rights both as a precondition and

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8 Y ‘Burns, Green rights: theory and development’ in the thematic Centre South Africa in transition: Green rights and an environmental management system, (1993) p, 13
9 Ibid
10 FRANZ XAVER PERREZ, cooperative sovereignty: from independence to interdependence in the structure of international environmental law / (2000) p, 46-64
11 Philippe Cullet, definition of an environmental right in a human right context, Netherlands Quarterly of Human Rights (1995), p. 25

Published By: Universal Multidisciplinary Research Institute Pvt Ltd
an outcome of the enjoyment of many human rights. As a pre condition, the preservation, conservation and protection of the environment requires the right to information, participation in decision making and the right to accesses to justice which are human rights by themselves. As an outcome, protection and conservation of the environment plays a vital role to the enjoyment of human right including the right to life and health. Hence, many of international environmental instruments directly or indirectly recognize the linkage human right and environmental protection.

To being, with the 1972 Stockholm Declaration is the first authoritative statement supporting the linkage between of human rights and environment. Principle 1 of the Stockholm Declaration contains the “fundamental right for man to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being.

Literally interpreted, this sentence has the quality of a human right as it supports anthropocentric approach and vested human being with freedom of quality and adequate conditions of life that permits dignity and well-being. Besides, Principle 7 of the Stockholm Declaration provides that states are required to take steps to prevent pollution of the environment by substances, which affect human health. This provision affirms, at least indirectly, human right to environment as it is subsumed in the right to health.

“Since Stockholm Declaration a number of other non-binding but widely accepted declarations supporting the individual’s right to environment have been adopted”.12 “These instruments approach environmental protection as a pre-condition to the enjoyment of internationally-guaranteed human rights, especially the rights to life and health”.13 Environmental protection is thus an essential instrument in the effort to secure the effective universal enjoyment of human rights. “This approach, for example, is supported by the General Assembly which has called the preservation of nature a prerequisite for the normal life of man”.14

13 Dinah Shelton at id at p3
14 GA Res. 35/48 of 30 October 1980
Besides, principle 1 of the 1992 Rio declaration states that human beings are “entitled to a healthy and productive life in harmony with nature.” Compared with Principle 1 of the Stockholm Declaration, the reference in Rio to a vague entitlement to live “in harmony with nature” tends to water down the human rights dimension of environmental protection. “Nonetheless, the Rio Declaration recognized the critical role that the exercise of human rights plays in sustainable development by public participation, access to information and access to judicial remedies, well-recognized procedural rights in environmental matters.”\textsuperscript{15} Thus, these procedural rights, contained in all human rights instruments, are adopted in environmental texts in order to have better environmental decision-making and enforcement. Otherwise, a substantial and explicit human right to environment cannot be found in Rio declaration.

There is still another environmental law regime, the 1998 Aarhus Convention, which recognizes the linkage between human right and environment. “The preamble of Aarhus convention envisioned that adequate protection of the environment is essential for human well being and the enjoyment of basic human rights, including the right to life itself.”\textsuperscript{16}

This agreement represents probably the most important step yet taken towards human right to environment: it establishes rights—to information, to participation in decision-making, and to access to justice in environmental matters—which it expressly affirms are aimed at securing the right to a healthy environment.\textsuperscript{17}

The Aarhus convention further establishes a conceptual link between substantive and procedural environmental rights by stating that:

citizens must have the right access to environmental information, be entitled to participate in decision-making and have access to justice in environmental matters” in order “to be able to assert” their right to live in an environment adequate to their health and well-being, as well as to “observe” their concomitant duty “to protect and improve the environment for the benefit of present and future generations.”\textsuperscript{18}

Finally, the link between human rights and environment was given a further impetus with the Brundtland Report of 1987, which presented the basic goals of environmentalism as an extension of the existing human rights discourse, and proposed the formulation of the right to environment.

\textsuperscript{15} Declaration of the UN Conference on Environment and Development (the Rio Declaration) Rio de Janeiro, 3-14 June 1992 at Principle 10

\textsuperscript{16} Convention on access to information, public participation in decision-making and access to justice in environmental matters done at Aarhus, Denmark, on 25 June (1998),par.1

\textsuperscript{17} Timmy Hayward, constitutional environmental rights (oxford university press 2005), p 58

\textsuperscript{18} See article 3,4 and 7 of Aarhus convention
Pursuant to the proposal “All human beings have the fundamental right to an environment adequate for their health and well-being.”

In summary, to date, no such internationally binding environmental instruments have been created that explicitly recognized human right to environment. So, while it would be premature to assert that international environmental law definitely recognizes a human right environment, there have been sufficiently significant moves in this direction to support a prima facie case for asserting that human right to environment is emerging in international law.

1.2.2. Human right laws

Thus far, it has been shown that environmental law provides some insight about the link between environment and human right. However, most of them are solely soft law documents and thus legally not binding. Therefore, it is logical to find the recognition of the linkage between environment and human right in existing human right laws. In the following sections I have examined both global and regional human instrument with the view to demonstrate the linkage between environmental protection and human right.

A. Global Human Right Instruments

Generally speaking, there is scarce mention of independent human right to environment under global human right instruments. “In the mid-twentieth century, for example, the UN Declaration on human right made no mention of it, and nor did ICCPR and ICSECR.” Instead, for a long period of time the right to environment has been linked with other human rights such as the right to life and health. This fact has been affirmed by human right committees in its commentary on the content of the right to life. The Committee has taken the view that the right to life in the ICCPR does require states to take positive measures to reduce infant mortality and to raise life expectancy. “As the right to life can be affected by environmental disasters and more long-term environmental degradation, which produce life-threatening diseases, state party to the convention

19 Brundtland Report, WCED (1987), 348
20 Timy Hayward at 55
has to take environmental measures.” Therefore, there is a potential of environmental right being implied with by the right to life provision of treaties.

There are also few cases affirming this way of thinking. In EHP V.s Canada case a group of Canadian citizen alleged that the storage of radioactive west near their home threatened their right to life and the human right committee acknowledged the allegations. Hence, Global human right instruments deal the right to environment as constitutive element of other human right specially the right to life and health.

B. Regional Human Right Instruments

Regional human right instruments are better in recognizing human right to environment.

To begin with, the Inter American Human Right Convention has recognized the right to a healthy environment as an independent human right. A more detailed formulation of the right was included in the Additional Protocol to the American Human Rights Convention on Economic and Social Rights, adopted in San Salvador, El Salvador, on November 17 1988. The protocol is straightforward in its formulation of the right to environment. It does explicitly recognize an individual right to environment, as it stipulates that “every one shall have the right to live in a healthy environment and to have access to basic public services.” Here it is vivid fact that, the protocol went on beyond mere recognizing the link between environmental protections and human right as it grants independent human right to environment.

In Africa, the 1981 African Charter on Human and Peoples’ Rights provided that “All peoples shall have the right to a general satisfactory environment favorable to their development” (Article 24). “It should be noted at this juncture that this provision does not actually recognize the right to environment as an individual human right, rather it recognizes as a collective right vested in peoples.”

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24 Id at article 11
25 Supra note 4 at the last limp of article 24 of the charter
In Europe, in 2005 the Council of Europe adopted a “Manual on Human Rights and the Environment, in which it was stated that although there is no express right to a clean environment, certain Articles of European human right convention may give rise to environmental claims, such as the right to life.”

Based on this way of interpretation, state has an obligation to regulate and control environmental problems where they impair the exercise of right guaranteed in convention.

“In addition to this, state has an obligation to make available information concerning serious environmental risks and to make provision for participation in environmental decision-making and access to justice in environmental cases”.

Form the discussion made so far, I can deduce that regional human right instrument have better recognized human right to environment either in the form of an independent human right or part of other human right instruments.

1.2.3. Case laws

Alongside the above mentioned normative frameworks, there are also recognition of the linkage between environmental protection and human rights in case laws. “For instance, International Court of Justice’s Judge Weeremantry, in his separate opinion in Case Concerning the Gabcíkovo- Nagymaros Project” recognized that the enjoyment of internationally recognized human rights depends upon environmental protection for it is a sine qua non for numerous human rights such as the right to health and the right to life itself. He added that damage to the environment can impair and undermine all the human rights spoken of in the Universal Declaration and other human rights instruments. “Therefore, Judge Weeremantry’s opinion reflects the growing recognition in the international community that in the field of human rights specific rights are inseparable from environmental quality.”

Besides, “the European court of human right (ECtHR) over a period of several years has developed an impressive jurisprudence concerning cases with a certain environmental

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27 Ibid
29 Ibid
element. ” 30 The court implied human right to environment in other human right instruments including the right to life and health. “The relevant Articles which were the legal ground for bringing the cases were mostly Articles 8 and 2.” 31

“Hence, Court has made several very important statements as to the applicability of these Articles in environmental matters.” 32 It went on arguing that even ‘if there is no human right to environment in the catalogue of human rights protected by the Convention; Article 8 may be invoked when the individual is directly and seriously affected by noise or other pollution’. Here too, their exits a growing recognition of the link between environmental protection and human right in the judge made laws of European communities.

PART II: THE RIGHT TO ENVIRONMENT UNDER AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHT

2.1. Introductions

As I have slightly noted earlier the human right to environment is scarcely mentioned in human right to instruments. The African charter on Human and Peoples’ right can be placed at the forefront in recognizing the right to environment in binding norms. The Charter was adopted by the Head of state and Government of the Organization of African Unity (OAU) on 27 June 1981 and came in to force on 21 October 1986. “This is the first regional system to recognize the right to a general satisfactory environment.” 33

2.2. The Nature and Contents of the Right to Environment in the Charter

No clear indication is given by the African charter as to what the term ‘peoples’ right to a general satisfactory environment favorable to their development’ entails. Therefore, since the

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30 Malgosia Fitzmaurice, contemporary issues in international environmental law (2009), Published by Edward Elgar Publishing Limited. 205
31 Article 8: Right to Respect for Private and Family Life, states: (1) everyone has the right to respect for his private and family life, his home and his correspondence. (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society, in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others
32 See for instance Association X v United Kingdom application 7154/75 14 Decisions and Reports of the European Commission on Human Rights (D &R) (1979), 31,32; Stewart v United Kingdom D & R (1984)
inclusion of the right in the African charter academicians have endeavored to clarify the crude formulation of the charter. Be that as it may, human right to satisfactory environment in the wording of the charter embraces two main components: substantive and procedural elements.

With regard to the substantive content of the right to environment, Tim Hayward, said that substantive part of the right to environment embraces, among other things, the following constitutes elements:

- Freedom from pollution, environmental degradation and activities that adversely affect the environment, or threaten life, health, livelihood, well-being or sustainable development;
- Protection and preservation of the air, soil, water, sea-ice, flora and fauna, and the essential processes and areas necessary to maintain biological diversity and ecosystems;
- Protection against any action or course of conduct that may result in the destruction or degradation of their territories, including land, air, water, sea-ice, wildlife or other resources.

“What is more, the substantive content of the right to environment as envisioned in the charter possesses the characteristics of civil and political right.”

Not only this but the human right to environment also requires the government to progressively realize and fulfill the right to satisfactory environment. This would inter alia include conservation, environmental sound management of the environment as well as an attempt at improving the natural environment.

Regardless of the above mentioned ambiguity on the substance of the right, the very inclusion of the right to satisfactory environment is a progressive step and potentially powerful mechanism in addressing environmental concerns in Africa. And the fact that African human right commission has found Nigerian Government in violation of article 24 of the charter is indicative of the substantive important of this right to environment.

Apart from substantive to rights environmental, there is also the other equally important limb: that of procedural aspect of the right to environment. Once again the charter does not clearly provide procedural components of right to environment. However, the African commission on human right defined it in the Ogoni people’s decision between SERAC (Social and Economic Right Action Center) V.s Nigerian government. In its decision, firstly the commission set out

34 Morne ibid p, 175
that in order the public to effectively advocate for environmental protection, accesses to environmental information is vital.

Secondly, the right requires the government to allow the public to participate in proposed decision that could affect the community. By doing the so, the government can improve the ultimate decisions by broadening the information available and build public support by giving people the opportunity to have their opinions heard.

The third procedural component of the right to environment according the decision of commission is access to justices. The right to access to justice empowers citizen and civil society organizations to assist governments in enforcing environmental laws and ensuring respect for environmental rights.

All in all, it is thus safe to argue that article 24 of the Charter confers a right to a pollution free environment that supports sustainable development, as well as procedural right of access to information, participate in the process of decision making, and to seek redress in the event of interference with the enjoyment of the right to environment.

2.3. The Beneficiaries of the Right to Environment under the Charter

“As Merrills notes, since the function of rights is to mark out protected areas for the benefit of someone or something, the identity of a rights holder is crucial to the content of a right.”

36 The beneficiary of the right to environment is highly dependent on whether the charter has adopted anthropocentrism or eco-centrism approach. At this juncture, a close reading of article 24 show that the approach followed by Charter is somehow tilt towards anthropocentrism. A human right to a general satisfactory environment is, in an obvious sense, a human-centered right: it considers the environment only under the aspect of its contribution to human health and well-being; no provision is explicitly sought for the nonhuman beings that coexist within our environment; and no mention at all are made of the environment ‘for its own sake.

The next question that follows is that to whom the right is belonged to in the context of African Charter on Human and peoples’ right. The charter once again sheds some light. The charter

recognizes the right to environment as a collective rights and it is enjoyed collectively. Hence, people collectively are the beneficiary of the right to environment. Here, I would argue that the charter adopted the best approach as would benefit society as a whole and enable NGOs to challenge environmentally detrimental behavior on public interest grounds. The best example on this regard is Ongoloni people case where by the African commission on human right affirmed representation of the Ongoloni peoples’ claim by individual NGO, SERAC.

2.4. Duty Bearer of the Right to Environment in Charter

“With regard to duty bearers, no express duty is prescribed under article 24. Pursuant to article 1 of the African Charter, however, it seems that states are duty bears of right to environment.”

Article 1 of the African Charter on human and peoples’ right provides that the member state of the organization of African Unity (the present AU) shall recognize rights, duties, and freedom enshrined in the charter and shall undertake to adopt legislative or other measures. However, not every commentator agrees with the position that only state parties bear the duty. Solomon Tamarabakemi Ebobrah, for instance argued that state holds primary obligation but not exclusive obligations. “Thus he has pointed out that so-called ‘peoples’ rights in international law, which would include the right to a clean environment, might well also involve obligations for entities other than the states, although the issues is far from clear.”

His position is partially convincing as states are not the only potential violator of the environmental rights. “The African human right commission in its decision in Ogoni people’s case acknowledged entities other state may bear duty of the right to environment.”

Thus, I can conclude that whereas by the nature of the African Charter, only states are parties and as such hold primary duties under article 24, non-state actors can, and do have duties in respecting the right to environment.

37 Article 1of the charter provides that the Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.
38 Solomon at p.14
39 Communication 155/96, Report of the Commission, the ogoni people case, the decision has been published at http://www.cesr.org/ESCR/africancommission.htm, it was communicated to the parties on (2002), p.55
PART III: ASSESSMENT OF A CASE: THE OGONI PEOPLE CASE (SRAC VS NIGERIA)

3.1. Introduction

So far I have seen the legal framework of the right to environment under the charter, now it logical to explore how those legal frameworks put in to practice. In this respect, a case decided by African commission on human right is worth relevant. In March 1996 the ‘the commission’ received communication against Nigeria alleging among others a violation of the right to satisfactory environment of the charter. “The case was jointly brought by the Social and Economic Right Action Center and (SEAC) and the Center for Economic and Social Right (CESR) against Nigerian government.”

The communication alleges that the Nigerian government, through its involvement in the exploitation of Niger Delta, contributed both directly or indirectly to the gross violation of Ogoni people’s human rights. “The rights that were allegedly infringed include the right to health or satisfactory environment, the right to adequate standard of health, the right to property and the right to housing.” In so far as the right to environment is concerned, it is indeed a landmark decision. “This communication was the first time, since the inception of the African human right commission 1987, that African commission proclaimed a meaning to Article 24 of the charter on Human and Peoples’ right.”

3.2. Findings of the commission

“In its decision after considering the compliant, the commission pertinently stated that article 24 of the African charter recognizes the importance of clear and safe environment.” It found that Niger Delta environment suffers from degradation as a result of oil pollution and held that the net effect of environmental degradation is against the right to satisfactory environment as envisaged in the African charter on human and people’s right. Specifically, the commission found Nigerian government in violation of right to environment on the following grounds:

40 In accordance with article 45 of African charter on human and peoples’ right, an African commission on human and peoples’ right was established in 1987 with the mandate to promote and protect human right in Africa.
41 Morne ibid, p,168
42 Ibid
43 Ibid
44 Supra note, p, 51
Firstly, “it has said that Nigerian government should refrain from interfering in the enjoyment of the right to clean and satisfactory environment.“\(^{45}\) Contrary to this obligation under article 24 of the Charter, however, the Nigerian National Petroleum Company (NNPC) formed a joint venture with Shell Petroleum Development Corporation (SPDC) whose activities in the Ogoni region allegedly caused environmental degradation and health problems among the Ogoni people, resulting from the contamination of the environment.

Secondly, Nigerian government failed to protect right-holders against other actors (third parties) by legislation and the provision of effective remedies. In this regard, the commission found that the Nigerian government neither monitored operations of the oil companies nor required safety measures. Instead, the commission said, Nigerian government was actively involved in the pollution, the contamination of the environment and resulted in health problems of the Ogoni people, by condoning and facilitating the activities of the oil companies through placing the legal and military powers of the state at the disposal of the oil companies. “It is also argued that the Nigerian government failed to regulate, monitor and investigate the behavior of the oil companies in Ogoniland”.\(^ {46}\) And these are clear violations of the duty to protect people living in that region from the harmful activities of third parties and hence it violates the human right to environment as envisaged in the charter.

Thirdly, the government had also withheld information on the dangers created by the oil activities from the Ogoni communities. Hence, the commission reached the conclusion that Nigerian government has failed to provide relevant information to the concerned community and thereby in violation of the human right to environment as envisioned in the charter.

Fourthly, the commission has found that the government of Nigeria failed to produce basic health and environment impact studies, nor asked the oil companies to do so. In other words, “the government has not taken care to protect the inhabitants of Ogoni land against the harmful activities of the oil companies.”\(^ {47}\)

\(^{45}\) Ibid. 54.
\(^{46}\) Ibid, 55
\(^{47}\) Ibid, 55 para ,53 and 54
It may then be stated that the environmental impact assessment undoubtedly constitutes a procedural human right to a clean environment in the charter.

Lastly, the Commission stated that there was a violation of the right to representation. It stated that an adequate opportunity for representation in the ‘development of decisions affecting the communities’ was an obligation placed on the government. “This part of the decision was in accordance with the spirit of articles 16 and 24 of the African Charter that is public participation in the decision making”. 48

In conclusion, the human right to environment was interpreted by the Commission broadly as not only providing a clean environment and unimpaired access to resources, but also conducting environmental impact assessment studies prior to any activity which may impact adversely on the environment. It also emphasized the right to information and the right to be heard as constitute elements of the right to environment.

PART IV: CONCLUSION

In this short paper I have discussed the right to environment in the African charter on Human and peoples’ right. International environmental law does not really offer a clear basis for a human right to environment. We find neither binding international environmental law nor any soft law statute that vividly recognizes the right to environment. However, we have some implicit expression in soft law that by interpretation contains some relevance to the right to environment. Likewise, International Human Right Instrument scarcely and vaguely mentions the right to environment. In most of the instrument right to environment is subsumed by other human right concepts such as the right to life or health. Nonetheless, there are few regional human right instruments such as African Charter on Human and peoples’ right that explicitly recognizes the right to environment in a binding form. The discussion also indicates that the exact meaning and scope of rights to environment is not ascertainable to date. What is evident in this regard is that the rights to environment contain both substantive and procedural components. Finally, the discussion has made clear that African Commission on human right affirmed the existence of a

48 Hakeem O Yusuf, national corporations and realizing human rights in the developing world, with specific reference to Nigeria African human right journal vol.08, No. 1 (2008), p,93
binding right to a satisfactory environment in the African charter. However, it is merely a moral victory since the commissions’ decision is not binding but merely recommendatory.