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LEGAL AND ADMINISTRATIVE REMEDIES IN ENVIRONMENTAL LAW IN NIGERIA: REFORM PROPOSITION

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Abstract

The article examines remedies in environmental law cases in Nigeria, in the light of problems faced by aggrieved litigants. It posits that despite the fact that there is a plethora of remedies and reliefs which a party can obtain as a result of a successful law suit, the impact of such available remedies are not adequate. The article examines remedies under the constitution, statutes and common law. The article states that Environmental litigation is a common vehicle for driving these remedies in order to transform the remedies into reliefs. Environmental litigation can take various forms which include civil actions based on tort, contract or property law, criminal prosecutions, public interest litigation or enforcement of fundamental human rights. The paper identifies reliefs within the enforcement powers of the courts which may include injunctive relief, restitution and remediation orders, continuous mandamus, damages, cost and fees, and criminal penalties. The paper also examines administrative remedies like direct government intervention, international intervention, environmental impact assessment and licensing. In addition, the article posits that other legal and administrative avenues need to be explored for optimal impact towards environmental sustainability and adequacy of remedies under the Nigerian legal system. At the legal angle, the article recommends that the principles of access

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to justice under Principle 10 of Rio Declaration should be incorporated into environmental law in Nigeria. It also recommends that rules on locus standi, limitation of action and pre-action notice should be relaxed in environmental cases. Administrative recommendations made in the article include establishment of a specialized environmental court, greater use of alternative dispute resolution methods, provision of effective supplementary complaint systems and the Use of Supplemental Environmental Projects.

1. INTRODUCTION

Taking an action to court or making a claim before a court can be expensive, time consuming and very stressful. Nonetheless, people accept these costs, both financial and personal, because they have a grievance that they require to be settled.[1] Such parties are in other words; seeking a remedy for some wrong they have suffered, or at least that they believe they have suffered. In practice, it is the actual available remedy and relief that the litigant focuses upon, rather than the process in terms of procedure and the details of the law through which it is to be attained.[2] The details of law and procedure involved are left to the legal professionals.

To this extent, the purposes remedies serve in environmental law have been stated to include environmental restoration, personal redress of those affected, implementation of legislation, reinforcement of the rule of law and promotion of sustainable development.[3] There is no standard as to the order of priority of these purposes and two or more of these may also be jointly targeted. Bearing these purposes in mind, the Nigerian situation raises serious concerns about the state of the environment and

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1 Slapper, G. & Kelly, D., *English Law*, 2nd ed. (Routledge, New York, 2006) 704.

2 *Ibid.*

3 UNEP Global Judges Programme, "Remedies in Environmental Cases," *presentation 9 of the outcome document 'Application of Environmental Law by National Courts and Tribunals,'* slide 6 available at www.unep.org (last accessed on 22/09/2012).

victims of environmental wrongs. The reports of cases ranging from environmental pollution to continuous industrial use of substances that threaten the ecosystem abound, which are linked to misuse of the environment in Nigeria.[4] Consequently, there is the current spate of increasing incidences of natural disasters including floods, erosion, droughts, desertification, all adding up to make the situation of the environment and its stakeholders in Nigeria more and more alarming.

Against this background, this paper seeks to identify the existing legal and administrative remedies available for environmental violation in Nigeria while suggesting reforms with which the current state of things can be improved. The article is divided into six major parts, comprising this introduction which is followed by the conceptual clarifications of key terms, after which the history of environmental law remedies in Nigeria is traced. The fourth part identifies the various legal and administrative remedies available in the Nigerian environmental law, while posing critical analyses of same. Reform propositions are made from a comparative perspective in the fifth part. The paper concludes with a note of optimism on the remedial terrain of Nigerian environmental law.

2. CONCEPTUAL CLARIFICATION

There are four terms that require clarification namely, "administrative", "environmental law", "remedy" and "relief."

2.1. Administrative

The term, "administrative," is derived from administration, which refers to the management or performance of the executive duties of a government, institution or business; or the practical management and direction of the executive department and its

[4] The Associated Gas Re-Injection Act No. 99, 1979 (later Cap. 26, Laws of the Federation of Nigeria, 1990, now 2004); the Oil in Navigable Waters Act (Cap. 337 Laws of the Federation of Nigeria, 1990, now 2004) were some of the legal responses to the constant pollution of the Nigerian environment.

agencies.[5] In this sense, administrative functions or acts are distinguished from judicial acts.[6] Administrative acts may arise from executive functions or policies. In this context, administrative actions by government through its administrative agencies on the environment will be discussed in relation to obtaining remedies in environmental cases.

2.2 Environmental Law

This is the law that governs the environment and defining the environment will be a necessary step to understanding the law that controls it. Although there is no universally accepted definition of environment, it has been defined as "The totality of physical, economic, cultural, aesthetic and social circumstances and factors which surround and affect the desirability and value of property and which also affect the quality of peoples' lives".[7] This definition of environment reveals a wide range of players in the environment including biotic and abiotic, local and foreign, and their interaction. Thus, there is need for environmental law to protect the interests of these players.[8]

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5 Black's Law Dictionary (2004) 8th ed., 46 available at http://thelawdictionary.org/remedy (last accessed on 23/09/2012).

6 *People v. Austin,* 20 App. Div. 1, 46 N.Y. Supp. 52G.

7 See Ajai O.O., *Perspectives in Law and Justice,* 1st ed. (Fourth Dimension Publishing, Enugu, 1996) 240.

8 In terms of the need for environmental law, human beings by their activities have affected the environment the most and since law is an instrument for social change, environmental law is a necessity for the preservation of the environment. Shelton and Kiss have asserted that environmental problems stem from two main categories of human activities: (a) Use of resources at unsustainable levels i.e. at a level which may compromise the equitable interest of present or/and future generations; (b) Contamination of the environment through pollution and waste at levels beyond the capacity of the environment to absorb them or render them harmless. See Shelton, D. & Kiss, A., *Judicial Handbook on Environmental Law* (United Nations Environment Programme 4, 2005) available at http://www.unep.org/environmental governance/portals/8/documents/judicial/hbook/env/law (last accessed on 23/092012).

2.3 Remedy

Remedy is the means by which the violation of a right is prevented, redressed, or compensated.[9] It is also termed civil remedy and is derived from the phrase "remedial law" which refers to "a law providing a means to enforce rights or redress injuries..."[10] Remedies are of four kinds:

(i) By act of the party injured, the principal of which are defense, reception, distress, entry, abatement, and seizure;

(ii) By operation of law, as in the case of retainer and remitter;

(iii) By agreement between the parties. e.g. by accord and satisfaction and arbitration; and

(iv) By judicial remedy, e.g., action or suit.[11]

Remedial action in environmental law parlance is "an action intended to bring about or restore long term environmental quality; a measure intended to permanently alleviate pollution when a hazardous substance has been released or might be released into the environment, so as to prevent or minimize the risk to public health or to the environment".[12]

2.4 Remedy distinguished from Relief

It is apposite to draw the thin line between 'remedy' and 'relief.' Relief means "deliverance from oppression, wrong, or injustice. In this sense, it is used as a general designation of the assistance, redress, or benefit which a complainant seeks at the hands of a court, particularly in equity. It may be used for such remedies as specific performance, or the reformation or rescission of a contract; but it does not seem appropriate for the

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9 Black's Law Dictionary (2004) *Op. cit.* (last accessed on 25/09/12).

10 *Ibid* at 1319 (last accessed on 26/09/12).

11 Douglass, L., *Modern American Remedies: Cases and Materials,* 3rd ed. (Aspen Publishers, Newyork, 2002)1.

12 Black's Law Dictionary (2004) *Op. Cit.* at 1319 (last accessed on 25/09/12).

award of money damages."[13] Relief may also mean the "...assistance or support pecuniary or otherwise, granted to indigent persons by the proper administrators of the poor laws...."[14]

From these definitions, it is difficult to distinguish between the two words. However, it appears that while remedy is the process of delivery from oppression, wrong or injustice, relief is the end product of the remedy process which practically improves the victim's situation. However, as seen from above, both are used interchangeably. In this article, damages will be discussed as a judicial relief.

3.0 HISTORICAL PERSPECTIVES ON LEGAL AND ADMINISTRATIVE REMEDIES IN NIGERIAN ENVIRONMENTAL LAW

There are broadly four identifiable eras in the development of environmental law in Nigeria, beginning with the pre-colonial era, to the colonial era, the post colonial but pre-1988 era and then the period from 1988 to date. Each of these will be examined seriatim.

3.1. Pre-Colonial Period

In Pre-colonial Nigeria, land was seen as a common asset jointly owned by "... a vast family of which many are dead, few are living and many are yet unborn".[15] There was diverse integration of agricultural, religious and socials norms and value systems for the protection of the environment. Similarly, remedies available in cases of environmental violations consisted mainly of remediation and repatriation where possible,

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13 *Ibid* (last accessed on 27/09/2012).

14 *Ibid.*

15 Ademola T. A., *African Concept of Environment and Environment Protection,* 11 available at www.nou.edu.ngnoun/NOUN_OCL/pdf (last assessed on 29/09/2012).

and punishment, which were administered by the administrators, law enforcement agencies or/and the spiritual leaders.[16]

3.2 Colonial Period

During the colonial period, Nigeria received the common law into the body of Nigerian laws,[17] thus making the common law principles of Nuisance, Trespass, Negligence and the Strict Liability rule in *Rylands v. Fletcher* part of the Nigerian law. These principles had the capacity to conserve the environment against domestic environmental violations, but it was unsuitable for Nigeria at that time. Moreover, the common law principles have not proved adequate, considering the serious kinds of environmental threats that have emerged over time.[18]

The origin of environmental legislations can also be traced to the colonial period. Earlier statutes containing environmental matters did not provide for remedies in environmental cases outside common law.[19] Towards the end of the colonial period and on discovery of oil in commercial quantity, other laws

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16 The authorities were responsible for this, mainly the administrators, law enforcements officers and religious leaders. The administrators included the head of the household, the family head and principal members, village head and officers, and community head in conjunction with the council of chiefs. Law enforcement officers varied from community to community, but an example abound in the 'Akoda Obas' of the old Oyo Empire who were responsible for enforcing laws passed by the 'Oba' (King). Spiritual leaders also varied from community to community, but a typical example was the Ogboni of the Old Oyo Empire.

17 Section 14 of the Supreme Court Ordinance of 1914.

18 The threats of climate change, global warming, loss of biodiversity, deforestation and other threats of unsustainable development.

19 For example, Criminal Code Act of 1916, which prohibited water pollution (section 245) and air pollution (section 247) and created the offence of nuisance. In 1917, the Public Health Act was enacted; although somewhat broad in scope, this Act did contain provisions of relevance to the regulation of land, air and water pollution. Thus it is evident that at this time, matters relating to the environment were dealt with in a rudimentary manner.

having environmental "elements" began to spring up, but still failed to provide for concrete remedies in environmental cases.[20]

3.3. *Post-Colonial but Pre-1988 Period*

After independence, more statutes were enacted to regulate the operations of the oil industries.[21] In these statutes, environmental protection and remedy were either secondary or vague as not to guarantee compliance or enforceability.[22] In the

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20 For example, Criminal Code of 1958 aimed at controlling burial in houses[20] and the Public Health Act of 1958 which aimed to control the spread of diseases, slaughtering of animals and disposal of night soil and refuse. The fines and penalties for these offences were liberal and the laws were quite often poorly enforced.

21 The Oil in Navigable Waters Act of 1968 which created nine pollution offences, and specifically made it an offence for a Nigerian ship to discharge oil into prohibited sea areas created under the International Convention For The Prevention Of Pollution Of The Sea By Oil 1962; The Petroleum At of 1969 which provided the Minister with powers to make regulations for the prevention of pollution of water causes pursuant to the Act, and the Petroleum Regulation (pursuant to section 3 of the Petroleum Act of 1916), The Oil Mineral (Safety) Regulations, Petroleum (Drilling and Production) Regulation and Petroleum Refining Regulation, made thereto; Associated Gas Re-Injection Act of 1979 which provides for the utilization of gas produced in association with oil and for the re-injection of such associated gas not utilized in industrial projects; and so on.

22 For example, the Oil in Navigable Waters Act 1968 created nine pollution offences but was mainly a statute enacted in allegiance to the international community as it was enacted in satisfaction of one of the requirements for the ratification of the International Convention For The Prevention Of Pollution Of The Sea By Oil 1962. Also, Petroleum Act of 1969 by one of its regulations empowered the Minister to revoke the oil mining license or lease if, in his opinion, the licensee was not conducting petroleum operations in a vigorous and business-like manner in accordance with good oil field practice, but failed to define 'good oil field practice.' Moreover, it was observed that the Petroleum Act of 1969 has not led to revocation of any licenses or leases against the backdrop of spillages which have been on the increase. Associated Gas Re-Injection Act of 1979 was enacted and provides for the utilization of gas produced in association with oil and for the re-injection of such associated gas not utilized in industrial projects, but this Act was not practically implemented. See Ekpu A.O., "Environmental Law of Oil in Water: A Comparative Overview of Law and Policy in the US and

1970's, a number of communities in the Niger Delta Wetlands of Nigeria protested the ecological problems of the oil industry and the paucity of government action. The Expert Committee on environmental health of the National Council of Health in 1970 reviewed many proposals received on this subject with a view to recommending the establishment of a sanitary inspectorate in the Federal Ministry of Health.[23]

3.4. 1988 and Beyond

A bold attempt at establishing a regime for environmental remedies was made in 1988 in response to the Koko incidence[24] which led to the enactment of the Harmful Waste (Special Criminal Provisions) Decree No. 42 of 1988 (Now Act) [25] and

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Nigeria,"(1995) 24 *Denver Journal of International Law* 57 available at heinonline.org (last accessed 29/09/2012).

23 *Ibid*

24 The story of environmental protection in Nigeria came into limelight with the discovery of an Italian ship in May 1988 with some imported toxic chemical wastes, made up principally of polychlorobiphenyls (PCBS). The waste came from Italy in five (5) shipment loads totalling 3,884 metric tonnes. This was given much publicity by the media. The wide media reaction that accompanied the discovery, hastened the enactment of the Harmful Waste (Special Criminal Provisions) Decree No. 42 of 1988 and the then Federal Environment Protection Agency (FEPA) Decree No. 58 of 1988 (now repealed in 2007).

25 Harmful Wastes (Special Criminal Provisions) Act 1988 was enacted as a decree to arrest illegal dumping of wastes in Nigeria. Section 1 of the Act prohibited any person within the country from having any dealing whatsoever with harmful waste. Section 8 states that any person who attempts to commit any of the crimes under the Act shall be guilty of a crime and shall on conviction, be sentenced to imprisonment for life. Section 9 of the Act provides that the immunity from prosecution conferred on certain persons by or under the Diplomatic Immunities and Privileges Act shall not extend to any crime committed under the Act. Section 10 of the Act empowers police officers to perform test and take samples of any substances related to the commission of crimes created by the Act and seize the item or substance. The officer is equally empowered to arrest any culprit in the commission of the crime. The opinion has been expressed that section 9 cannot be invoked or enforced as immunities under the Diplomatic Immunities and Privileges Act have their origin from international conventions and treaties which have the force of law in Nigeria by virtue of Section 12 of the 1999 Constitution.

Federal Environmental Protection Agency (FEPA) Decree No. 58 of 1988 (Now repealed).[26] Subsequently, other statutes regulating environmental matters and providing for remedies in environmental law followed suit. While the enactment of these statutes was a landmark, the statutes were ravaged with limitations especially in the area of enforcement.[27] There were other major legal developments after 1988.

The Federal Ministry of the Environment (FME) was created in 1999 to replace FEPA. The Ministry pushed an agenda prioritizing issues of gas flaring, marine and coastal resources degradation, desertification, industrial and urban pollution, among others, while the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007 also repealed FEPA Act.[28]

National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007, otherwise called NESREA

See Ikhide E., "Environmental Protection in Nigeria," (2007) 2, *DLR Environmental Law Edition.*, 318 cited in Ademola T. A., *African Concept of Environment and Environment Protection,* 11 available at www.nou.edu.ngnoun/NOUN_OCL/pdf (last assessed on 29/09/2012).

26 Later codified as Federal Environmental Protection Act (FEPA) Cap 131 LFN, 1990. The Act established FEPA as an administrative and enforcement agency on environmental matters. It was enacted as a comprehensive legislation on the environment in Nigeria to the extent that it covered sectors whose laws were found in scattered enactments. The Act covered penal provisions against discharging hazardous substances in harmful quantities into the air, land or water. A fine not exceeding 100,000 naira and/or a term of imprisonment not exceeding 10years were the stipulated penalties for individual offenders while corporate offenders were liable to a fine of 500,000 naira and an additional fine of 1000 naira per day for every day the offence subsists. Inadequacy of the penalties contained in the FEPA Act was one of its greatest defects. Chegwe, E.N. "The Role of NGOs in Environmental Protection in Nigeria," (2006) 2(2) DLR Environmental Law Edition. 318.

27 *Ibid.*

28 Section 36 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007.

Act, was enacted as the principal legislation for environmental matters. NESREA Act established the National Environmental Standards and Regulations Enforcement Agency.[29] The Act saddles with the Agency wide range of functions for the protection of the environment.[30] The Act also vests enforcement powers in the Agency.[31] Section 8(s) of NESREA Act is a general clause giving NESREA power to do such other things, other than in the oil and gas sector, as are necessary for the efficient performance of the functions of the Agency. This is not to say that there are no legal means to remedy environmental harms.

Most of the functions and powers of NESREA are targeted at 'prevention rather than cure'. A major advantage that NESREA Act enjoyed is that it was enacted during a democratic government and therefore had the advantage of due legislative processes. The agency is a body corporate with perpetual succession and a common seal,[32] and therefore can sue and be sued. The agency may proceed against parties in order to obtain remedies in environmental cases.[33] Similarly, a party may proceed directly against the commission where such party has a claim against the agency; the agency may be joined as a party in proceedings, and stakeholders can apply to court to compel the agency to perform its statutory functions. The agency also

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29 Section 1 National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007

30 These include the responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general, and environmental technology, including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines. See Sec 2 National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007.

31 Sec 1(2)(a) National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007.

32 Sec1(2)(b) National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007.

33 Sec 8(e) National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007.

performs administrative functions of controlling and mitigating environmental hazards.[34]

The National Oil Spill Detection and Response Agency (Establishment) Act 2006 was also enacted. NOSDRA Act established the National Oil Spill detection and Response Agency (NOSDRA) as the agency charged with the responsibility of implementing the National Oil Spill Contingency Plan (NOSCP), derived from an international obligation under the International Convention on Oil Pollution Preparedness and Response Cooperation. The Act also makes regulations on waste emanating from oil exploration and production and its potential consequences in the Niger Delta area of Nigeria. Section 6(1)(a) of NOSDRA Act empowers the agency to carry out surveillance on oil exploration activities, and to ensure compliance with all existing environmental legislation, especially in areas of detection of oil spills in the Petroleum sector. The agency is mandated to 'police' oil companies in their activities. The law requires oil spillers to report oil spills to the agency not later than 24 hours of the spill,[35] and provides for penalty on default.[36]

Just like NESREA, the Agency is also a body corporate, and can sue and be sued. The agency can proceed against parties causing oil spill; parties can also proceed against the agency, and apply to court to compel the agency to perform its duties.

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34 For example, pollution abatement in section 7(d) of the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007.

35 Sec 6(2) National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, 2007.

36 Sec 6(2)&(3) National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, 2007.

4. LEGAL REMEDIES IN THE NIGERIAN ENVIRONMENTAL LAW

The bases for the pursuit of legal remedies in environmental law may include the Constitution, Statutes (criminal law remedies and civil remedies), Common law and Human rights.

4.1 *Constitutional Remedies*

The constitution provides for the basic rules and fundamental principles with which a country is regulated. As such, the constitution may not be all en-compassing, though it may provide for enabling provisions with which further laws can be enacted. Meanwhile, it is no longer news that the Nigerian constitution does not guarantee the right to a clean and healthy environment.[37] It also contains no specific provision for remedies in environmental cases.

The Nigerian constitution contains general provisions for the enforcement of rights,[38] and this may not be apt for environmental right remedies. Employment of these general provisions of the constitution in order to provide remedies for victims of environmental violation may depend largely on the discretion and creativity of judges.[39]

Notwithstanding the foregoing, the interpretation of right to life in the constitution of many countries of the world has been

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37 Sec 20 of the Constitution of the Federal Republic of Nigeria 1999 provides that "the State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria." This section, however, falls under chapter II of the Constitution which contains provisions on the fundamental objectives and directive principles of state policy which are non-justiciable by virtue of section 6(6)(c) of the same constitution.

38 ection 46 of the constitution provides that any person whole alleges that any of the provisions of Chapter 4 of the constitution dealing with fundamental human rights has been, is being or is likely to be contravened may apply to a High Court in the relevant state for redress. Litigants may commence proceedings for the enforcement of environmental right under this section of the constitution by alleging a threat to their right to life guaranteed by section 33 of the same constitution.

39 UNEP Global Judges Programme, *op. cit.* slide 8.

expanded to cover the non-justiciable right to clean and healthy environment. The Judiciary is increasingly adopting this interpretation to enforce environmental rights. For example, Indian courts have linked and enforced the non-justiciable principles contained in Articles 48A and 51A of the Indian Constitution, on the protection of the environment and the fundamental duties of state to protect the environment respectively, as right to life guaranteed by Article 21 of the same constitution. *Kendra v. Uttar Pradesh*[40] was one of the earliest cases where the Supreme Court dealt with issues relating to environment and ecological balance. The petitioner alleged that unauthorised mining in the Dehra Dun area adversely affected the ecology and environment. The Supreme Court of India upheld the right to live in a healthy environment and issued an order to cease mining operations.[41]

Pakistani courts have also upheld Article 9 of the Constitution of Pakistan on right to life in environmental cases. In *Sheld Zia v. WAPDA*, the petitioner questioned the court whether under Article 9 of the constitution; citizens were entitled to protection of law from being exposed to hazards of electro-magnetic field or any other such hazards which may be due to installation and construction of any grid station, any factory, power station or such like installations.[42] The Supreme Court of Pakistan

40 AIR 1985 SC 652.

41 Similarly in *Mathur v. Union of India*,[41] the Supreme Court used the right to life as a basis for emphasizing the need to take drastic steps to combat air and water pollution. In *Subhash Kumar v. State of Bihar*,[41] the Court observed that "right to life guaranteed by article 21 includes the right of enjoyment of pollution-free water and air for full enjoyment of life."

42 The court noted as follows: "Under the constitution, Article 14 provides that the dignity of man and subject to law, the privacy of home shall be inviolable. The fundamental right to preserve and protect the dignity of man and right to 'life' are guaranteed under Article 9. If both are read together, the question will arise whether a person can be said to have dignity of man if his right to life is below bare necessity line without access to proper environmental variables like food, clothing, shelter, education, health care, clean atmosphere and unpolluted environment."

Statutory remedies may be pursued under Criminal law and Civil law remedies. Under criminal law, reliefs available consist mainly of imprisonment of offenders and fines. While this may transform into a psychological relief for the victim, it does not reinstate the victim economically. Alternatively, civil law reliefs may reinstate the plaintiff economically, at least to a reasonable extent. It consists of damages, injunctions, abatements etc.

4.4. Human Rights Approach

The International Court of Justice and the various regional courts of human rights have linked environmental right with human right. Judge Weeramantry of the International Court of Justice in his separate opinion in the case of *Gabcikovo-Nagymaros* stated that: "the protection of the environment is likewise, a vital part of contemporary human rights doctrine, for it is sine qua non for numerous human rights such as the right to health and the right to life itself ... as damage to the environment can impair and undermine all the human rights spoken of in the Universal Declaration and other human rights instruments."[51]

The regional courts have towed this same line of action. In *Lopez Ostra v. Spain*,[52] the *European Court of Human Rights* upheld Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.[53] The Court held that the Kingdom of Spain had been in breach of Article 8 of the Convention. Similarly, the *Inter-American Court of Human Rights* acknowledged the human rights of human beings to a good environment. Article 11 of the Additional Protocol to the Inter-American Convention on Human Rights (1994)[54] states

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may be determined by the Agency from time to time' except where the discharge is proved to have been caused by a natural disaster, act of war or sabotage.

51 Separate Opinion of Judge Weeramantry p. 91-92, available at http://www.icjcij. org/docket/files/92/7383.pdf

52 Application no. 16798/90.

53 The Article provides that everyone has the right to respect for his private and family life, his home and his correspondence.

54 http://www.oas.org/juridico/english/sigs/a-52.html

that "everyone shall have the right to live in a healthy environment and to have access to basic public services; the state parties shall promote the protection, preservation and improvement of the environment." In upholding this provision, the Court held in *Awas Tingni Community v. Nicaragua* that logging of forestlands owned by the Awas Tingni communit constituted a violation of their human rights.[55]

The African Commission on Human and Peoples' Rights in *The Social and Economic Rights Action Centre and Another v Nigeria*[56] ruled that the Ogoni community had sufferec violations of their rights to health under Article 16 and to a general satisfactory environment favourable to development under Article 24[57] of the African Charter[58] due to the Nigerian government's failure to prevent pollution from oil exploration in the community and ecological degradation of their lands.[59]

It therefore, appears that human right approach to environmental law is another distinct means by which environmental rights may be enforced and environmental remedies may be sought. While these decisions are directly enforceable in some countries where such countries ratified the treaties or statutes regulating he courts, it is not enforceable in some other countries even where such countries ratified such treaties or statutes. The question is, therefore, how can such decisions become nforceable in countries within the latter category?

Inter-Am. Ct. H.R., (Ser. C) No. 79 (2001), available at http://www1.umn.edu/humanrts/iachr/AwasTingnicase.html Communication 155/96.

Article 24 of the African Charter on Human and People's Right, 1981 states that "All peoples shall have the right to a general satisfactory environment favourable to their development." Although Article 24 seems to qualify the protection of the environment with development; it is nonetheless an affirmation of environmental rights in Africa.

African Charter on Human and People's Right, 1981.

More importantly, the court held that the right to a satisfactory environment under the Charter can be invoked in Nigerian domestic courts since the Charter has been incorporated into Nigerian domestic law.

International human right decisions may become enforceable where a country domesticates the statutes that established the international or regional courts. Nigeria has domesticated the African charter.[60] Persons in Nigeria can therefore sue for their environmental rights under the African charter. In *The Social and Economic Rights Action Centre and Another v. Nigeria,*[61] the African Commission on Human and People's Right held that the right to a satisfactory environment under the Charter can be invoked in Nigerian domestic courts since the African Charter on Human and People's Right has been incorporated into Nigerian domestic law.

In 2005, Justice C.V. Nwokorie of the Federal High Court Benin City of Nigeria in *Jonah Gbemre v. Shell PDC Ltd and Ors*[62] granted leave to the applicant to institute environmental proceedings in a representative capacity for himself and for each and every member of the Iweherekan Community in Delta State of Nigeria, and to apply for an order enforcing or securing the enforcement of their fundamental human rights to life and human dignity as provided by sections 33 (1) and 34(1) of the 1999 Constitution of Nigeria, and reinforced by Articles 4, 16 and 24 of the African Charter on Human an Peoples' Right 1981.[63] The Court held that these constitutionally guaranteed rights inevitably include the rights to clean, poison and pollution-free healthy environment.[64]

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60 African Charter on Human and Peoples' Right (Ratification and Enforcement Act) of 1983.

61 Communication 155/96.

62 (2005) Suit No. FHC/B/CS/53/05; also available at http://www.climatelaw.org/media/media/gas.flaring.suit.nov2005/ni.shell.nov05.decision.pdf

63 *African Charter on Human an Peoples' Right* 1981 Cap. A9 Vol. 1, LFN 2004.

64 The Judge further declared that the actions of the respondents (Shell PDC and NNPC) in continuing to flare gas in the course of their oil exploration and production activities in the Applicant's Community is a violation of their fundamental rights. The judge's order restrained the respondents from further gas flaring and to take immediate steps to stop the further flaring of gas in the community. The court held further that

In view of law as of present, human rights and environmental protection share common objectives but not all environmental issues can be formulated as human rights violations.[65] The judgement in Gbemre's case is acclaimed to be a landmark judgment in the sense of application of fundamental human rights to environmental cases in consistence with the trend in other jurisdictions.[66]

5. JUDICIAL RELIEFS IN ENVIRONMENTAL LAW

Judicial reliefs are actions that result from the decision of a court which have cushioning effects on a victim of environmental violation. Once a claim has been established via any of the remedies discussed earlier, the court may then grant a relief in accordance with the pleadings of the plaintiff. Judicial reliefs are variously classified, and are sometimes called judicial remedies. There are three main types of reliefs that can be sought:- preventive reliefs consisting mostly of injunctions,[67] compensatory or reparatory reliefs[68], and abatement (self-help). Reliefs can also be classified into Coercive, Restitutive or Declaratory reliefs.[69]

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the Attorney General should ensure the speedy amendment, after due consultation with the Federal Executive Council, the Associated Gas Re-Injection Act to be in line with Cap.4 of the Constitution on Fundamental Human Rights. But the Judge made no award of damages, costs or compensation whatsoever.

65 See Ladan, M. T., "Human Rights and Environmental Protection," (1999) *Text for Human Rights Teaching in Schools*; Obilade, A. O. and Nwankwo, C., Constitutional Rights Project, Lagos-Nigeria) 95-108.

66 See Dean, M., "The Revolution in Indian Environmental Jurisprudence", (2000) 1(5) *Asia Pacific Journal of Environmental Law* 291-303

67 Injunction may be prohibitive or mandatory. A prohibitory injunction allows for actions creating environmental problems to be stopped while a mandatory injunction compels a party to take particular actions to improve on the condition in the interest of the victim of environmental violation.

68 Monetary damages act as compensation for any damage suffered but can also pay for any clean up costs involved in rectifying the damage.

69 Coercive relief is typified by an injunction; this type of remedy coerces the defendant to act or not act under threat of being found in contempt, which subsequently results in fines or imprisonment. Declaratory relief

5.1. Injunction

Injunction is an equitable relief; the granting of injunction is therefore discretionary. The activity complained may be continuing at the date of claim, or there may be a threat posed by the possibility that the activity will continue. Even where the activity has ceased at the time of trial, an injunction can still be sought if it existed when the claim was brought.[70]

Under common law principles, the general principle in the torts where continuing damage is likely–nuisance and trespass – is that claimants can expect to obtain an injunction notwithstanding that injunction is discretionary, unless the activity complained of is not of sufficient gravity or duration to justify stopping the defendant's actions.[71] This principle was affirmed in English case of *Kennaway v. Thompson,*[72] where the English Court of Appeal decided to award the claimant an injunction, restricting the times defendant boats raced and the noise made, on the application of the plaintiff, notwithstanding the public interest in the sport.[73]

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is authoritative and reliable statement of the parties' rights with no award of damages, restitution or injunction, and is often useful in contract cases when the parties need to know their rights and duties under the contract or when a citizen is confronted with regulation that may be unconstitutional and seeks to clarify the validity of the regulation without first breaching that regulation. Restitutive remedies are a form of damages used to prevent unjust enrichment by making defendants give up what they wrongly obtained from plaintiffs. Restitution can take on a punitive element when the restitution exceeds both the plaintiff's losses and the defendant's gains. See Dobbs, D B., Dobbs *Law of Remedies*: *Damages-Equity-Restitution*, 3rd ed. (Practitioner Treatise Series 1993) 566.

70 Ladan, (2007) *op. cit.* at 24.

71 See Turner LJ in *Godsmith V. Timbridge WIC* (1866) L.R. 1 Ch. App. 349.

72 (1981) QB 88.

73 The importance of this decision is that it confirms that a party which causes a nuisance or trespass cannot simply 'buy off' the rights of those affected by paying an award of damages. In the case of multi-party claims, of course, it is debatable whether courts could ever properly assess the right amount of damages payable if damages were ever to be preferred to injunctions on economic efficiency grounds.

There are situations where it is possible to obtain an injunction before the occurrence of the event causing injury or damage;[74] such anticipatory injunctions do not require proof of environmental damage at all.[75] However, the sufficient proof of imminent damage and it must be demonstrated that if the activity were to continue, the damage accruing would be significant enough to make it difficult to rectify.[76] Such injunctions are scarcely granted.[77]

5.2. Damages

While injunction is an equitable relief, damages are a 'legal' relief. Damages are compensatory remedies at common law, which are awarded, in form of monetary compensation to a person who complains of the violation of his legally protected right by the defendant.[78] A claimant can demand that the court award damages. The aim of such damages is to place the claimant as far as possible in the position they would have been in had the wrongful act not occurred.[79] However, the court may compensate actual damage where it is established. In Marquis of *Granby v. Bakewell UDC*,[80] the defendant operated gas works which discharged poisonous effluent into a river over which the claimant had fishing rights, killing numerous fish. The court awarded the claimant compensation equalling the costs of

74 Ladan, (2007) *op. cit.*, 25.

75 *Ibid.*

76 *Ibid.*

77 *Ibid.*

78 Amokaye G. O., *Environmental Law And Practice In Nigeria*, 1st ed. (University of Lagos Press, Lagos, 2004) 654.

79 This could be calculated in two ways; on the cost of clean-up operations necessary to restore the property to its previous state, or the difference between the value of the property as it was after the pollution had affected it, and before. The approach of the courts now, however, is to calculate damages according to the latter method. So, where there has not been physical damage, damages will be based on the difference in possible rental value during the period of the nuisance. This means that damages will not depend on the number of people affected, in line with the idea that nuisance is a land tort.

80 *Granby v. Bakewell UDC* (1923) 87 JP 105.

appropriate.[88] NESREA Act further provides that the Minister shall by regulations prescribe any specific removal method, financial responsibility level for owners or operators of vessels, or onshore or offshore facilities notice and reporting requirements[89]

Similarly, National Oil Spill Detection and Response Agency (Establishment) Act 2006 otherwise called NOSDRA Act vests with the National Oil Spill Detection and Response Agency (NOSDRA) the responsibility to undertake surveillance, reporting, alerting and other response activities for the curtailment and control of oil spillages, and the execution of the National Oil Spill Contingency plan[90]. It is notable that the Act does not prohibit the spillage of oil, but merely provide for what to be done after the spill may have occurred. It has been rightly named a "Response Agency".

6.2. Licensing

Licences are granted for environmental projects, for example, for oil exploration, oil prospecting or oil mining, [91] and same may be revoked where the project is not implemented in an environmental friendly manner. In the petroleum industry, the Minister has administrative control over the grant or refusal of licences.[92]

6.3. Environmental Impact Assessment

The principles of environmental impact assessment seek to prevent or mitigate environmental harms. In Nigeria, these principles are enshrined in the Environmental Impact

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88 Sec 29 National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007.

89 Sec 28 National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007

90 See generally, sec 7 The National Oil Spill Detection and Response Agency (Establishment) Act 2006

91 See, for example, Sec 2 Petroleum Act.

92 See, generally, First Schedule to the Petroleum Act, 1969.

Assessment Act (EIA). The forerunner of this Act was the Environmental Impact Assessment Decree No. 86 of 1992. The Act makes EIA mandatory for both public and private sectors for all development projects.[93] It has three goals[94] and thirteen principles. The goals and principles are directed at preventing or mitigating environmental harm where such is unavoidable.

6.4. Fines

Most environmental statutes provide fines for environmental violations. For example, NOSDRA Act requires an oil spiller to report an oil spill to the agency in writing not later than 24 hours after the occurrence, and default in this duty attracts a penalty of Five hundred thousand naira (N500, 000.00) for each day such failure subsists.[95] The same Act provides that failure to clean up the impacted site shall attract a further fine of one million naira.[96]

6.5. International Intervention

Some international arrangements are in place to combat environmental degradation or remedy environmental harm. An example of international intervention is the Certified Emission Reduction Programme under the Clean Development

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93 Section 2; Section 63(1) of the Act defines project as "a physical work that a proponent proposes to construct, operate, modify, decommission, abandon, or otherwise carry out or a physical activity that a proponent proposes to undertake or otherwise carry out."

94 The goals are: Before any person or authority takes a decision to undertake or authorize the undertaking of any activity that may likely or significantly affect the environment, prior consideration of its environmental effects should first be taken; to promote the implementation of appropriate procedures to realize the above goal; and to seek the encouragement of the development of reciprocal procedures for notification, information exchange and consultation in activities likely to have significant trans-state (boundary) environmental effects.

95 Section 6(2) The National Oil Spill Detection and Response Agency (Establishment) Act 2006 2006.

96 Section 6(3) The National Oil Spill Detection and Response Agency (Establishment) Act 2006 2006.

Mechanism (CDM) scheme.[97] This programme is beneficial to both the host sponsor and the host country. The Kwale[98] Clean Development Mechanism (CDM) project[99] was registered as a CDM project in Nigeria in 2005.[100]

7. A COMPARATIVE PERSPECTIVE TO REFORM PROPOSALS

There are two broad reform proposals: legal reforms and administrative reforms. Legal reforms consist of the reforms

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97 The Clean Development Mechanism (CDM) is one of the flexibility mechanisms defined in the Kyoto Protocol. It is defined in Article 12 of the protocol and is intended to meet two objectives namely (1) to assist parties not included Annexe 1, non-industrialized countries, in achieving sustainable development and in contributing to the ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC) which is to prevent dangerous climate change; and (2) to assist parties included in Annexe 1, industrialized countries, in achieving compliance with their quantified emission limitation and reduction commitments (greenhouse gas emissions caps). Nigeria is a signatory to the United Nations Framework Convention on Climate Change (UNFCCC) and Kyoto Protocol and it has obligations as a party to the protocol.

98 Project 0553: Recovery of associated gas that would otherwise be flared at Kwale oil-gas processing plant, Nigeria. Available at http://cdm.unfccc.int/Projects/DB/DNV-CUK1155130395.3/view

99 The successful registration of this project as a CDM project is a win-win situation for the project sponsor, Agip and the host country, Nigeria. The project generates Certified Emission Reduction Credits (CERS) which can be traded; the associated gas will be refined and sold; sustainable development in Nigeria is promoted; it results in transfer of technology to Nigeria; it improves air quality of the local community where associated gas had been continuously flared previously; it safeguards the environment and the health of the inhabitants of the local community thereby protecting their fundamental human rights guaranteed by the constitution of Nigeria.

100 The Kwale project is sponsored by Nigeria Agip Oil Company (NAOC) and the government of Italy. The main objective of the project is the recovery of associated gas that would otherwise be flared at Kwale (Niger Delta, Nigeria) Oil-Gas Processing Plant (OGPP). Traditionally, a large portion of associated gas produced from the Agip oil fields has been flared upon separation from the oil at Kwale, in the absence of any economically viable, commercial or other outlet for this gas, flaring of this gas results in emissions of carbon dioxide (CO2) and methane (CH4).

through the machinery of law and law making, while administrative reforms consist mainly of structural and institutional rearrangements.

7.1. Legal Reforms

The legal reform areas identified here revolve around the principle of access to justice and *locus standi.*

7.1.1. Incorporation of the Principle of Access to Justice into the Nigerian Environmental Law

The principle of access to Justice under the Principle 10 of Rio Declaration can be incorporated in National Laws and Polices through constitutional, statutory and institutional frameworks. Since Rio, a number of African countries have, in their national constitutions and legislations, provided for access to courts and administrative appeals for effective remedies in environmental cases.[101] For example, In South Africa, the right to a healthy environment and wellbeing of an individual is constitutionally guaranteed.[102] S. 38 of the South African Constitution which was promulgated in December 1996 and came into effect in 1997 grants right of action in environmental cases.

The Nigerian constitution does not have such a provision which specifically grants a right of action in environmental cases. It is proposed that opportunity should be taken of the current constitutional review process to provide for a justiciable right to healthy environment to bring the Nigerian law in line with international standards, more so that other African countries have done so.[103]

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101 UNEP's Report on Models of National Legislation, Policy and Guidelines in Africa, Asia, the Pacific Latin America and the Caribbean regions, A publication of the Division of Policy Development and Law of UNEP 2002.

102 Sec. 24 of the Constitution of South Africa, 1996.

103 In the Gambia, the National Environment Management Act 1994 at S. 4(1) empowers the Attorney General to bring a public interest action, where there has been a refusal by a person to follow certain instructions and he fails to do so, especially where their activities have adversely

7.1.2. Need to further relax the rules on locus standi, limitation of action and pre-action Notice requirements

Although the Supreme Court had widened *locus standi in Akilu v Fawehinmi,*[104] locus standi is still not wide enough to allow for easy accessibility to the courts especially in representative and public actions. In Ghana, for example, the traditional rule has been relaxed by the National Environmental Management and Coordination Act 2000.[105] In South Africa also, Pickering J stated in *Wildlife Society of Southern Africa and Others v. The Minister of Environmental Affairs & Tourism and Others*[106] that "...time has arrived for re-examination of the common law rules

affected or are likely to adversely affect the environment; In Malawi, the Environment Management Act provides for a right to a clean and healthy environment in S. 5(1). It is a duty incumbent on persons empowered under any law to perform functions relating to the protection of the environment to take steps and measures to promote a clean environment in Malawi [S. 3(2)], and in enforcing the right to a clean and healthy environment, any person may bring an action in the High Court to prevent or stop any act or omission deleterious or injurious to any segment of the environment or which accelerates unsustainable depletion of natural resources. He may also bring an action to procure public officers to take the above measures and also to require the subjection of an ongoing project to environmental audit [S. 5(2)]; In Uganda, S.4 of the 1995 National Environmental Statute grants every person a right to a healthy environment with a corresponding duty of all to maintain and enhance the environment, including to inform the authorities of environmentally deleterious activities. Local authorities and local environmental committees are empowered to bring action in courts notwithstanding the fact that the actions of the defendant has caused or is likely to cause any personal loss or injury, and Any person or group of persons can be granted the Statute in S. 75 also provides for environmental easements upon application to the court and the procedure of their enforcement. S. 105 grants a right of appeal from the decision of the National Environmental authority by an aggrieved person, and also gives the High Court power to exercise supervisory jurisdiction.

104 *Akilu v Fawehinmi* (1987) 4 NWLR (Pt. 67) 79.

105 Sec 3(4) of the Act provides that a person shall have capacity to bring action notwithstanding that such person cannot show that the defendant's act or omission has caused or is likely to cause him any personal loss or injury. The Ghanaian Act also provides for a right of every person to a clean and healthy environment and the corresponding duty to safeguard and enhance it.

106 Case No 1672/1995.

of standing in environmental matter involving the state and for an adaptation of such rules to meet the ever changing needs of society."

It is proposed that Nigerian Law should be brought in conformity with these developments. This will only require either the intervention of the legislature, or/and judicial activism by our courts, especially and more importantly the Supreme Court. Representative action and public interest litigation should be free from clogs of technicality. It is also proposed that limitation of action should not apply to environmental matters in whatsoever way. This is in view of the usually grave nature and long-term effect of environmental violation. While pre-action notice may still be retained, default in issuance of same should be viewed as a mere irregularity.

7.2. Administrative Reforms

Four administrative reforms are proposed here. There is need for a specialized environmental court, effective supplementary complaint system, better private negotiations and Alternative Dispute Resolution (ADR) process, and increased supplemental environmental projects.

7.2.1. Need for the Establishment of a specialized Environmental Court

Just as specialized courts like the National Industrial Court, has been established by the National Industrial Court Act (NICA) 2006 as a court to specifically cater for trade disputes, while the constitution has also placed matters of revenue and the like under the jurisdiction of the Federal High Court, it is recommended that a specialized environmental court will go a long way to bring about more compliance with international best practices in the field of environmental remedies and should therefore be established in Nigeria. This is even more imperative now in the wake of environment related disasters that have bedevilled the nation in recent times.

7.2.2. Nigerian Government needs to Provide Effective Supplementary Complaint Systems

This will serve a supplementary/ complementary purpose to the legal system, wherein aggrieved persons can file a written complaint with the Minister of Environment, or such other agency, which shall initiate investigations and give a written response within a particular period on actions taken on the complaint. This may ultimately lead to legal action where administrative remedies are either insufficient or unavailable.

7.2.3. Encouragement of private negotiations and Alternative Dispute Resolution (ADR) Process

ADR is the peaceful settlement of disputes by means other than litigation. ADR generally encompasses arbitration, conciliation, mediation, mini-trial, the multi-door court house, negotiation, and others. ADR has been identified as particularly suitable for the resolution of environmental disputes since it entails less court procedures, is less technical, speedier, less expensive and allows for the use of experts in resolving technical disputes which may require more than the ordinary grasp of judicial personnel and lawyers[107].

Large scale use of Alternative Dispute Resolution process should be encouraged in environmental matters, especially when the cases involve private wrong. In South Africa, the Constitution guarantees the right to have any dispute that can be resolved by the applicant decided by a fair public hearing in a court or another independent and impartial forum.[108] The Constitution of the same country further guarantees the rights to administrative action that is lawful, reasonable and procedurally fair.[109] Similarly, the South African National Environmental Management Act No 107 of 1998 provides for various ADR

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107 See Asein, J.O., *Introduction To Nigerian Legal System*, 2nd ed. (Ababa Press Ltd, Ibadan, 2005) 324-325.

108 Sec. 34 of the South African Constitution

109 *Ibid*, sec. 32

means.[110] It is strongly proposed that these developments should be emulated. This will decongest our courts, provide remedies for aggrieved parties and preserve relationship between parties.

7.2.4. The Use of Supplemental Environmental Projects

"The purpose of Supplemental Environmental Projects is to encourage and obtain environmental and public health protection and improvements that may not otherwise have occurred without the settlement incentives provided by the policy."[111] Supplemental environmental projects are projects undertaken to improve, protect or reduce risks to public health of the biotic components of the environment in issue, and the good state of the environment at large. This improves the lives of inhabitants of places where projects affecting the environment are situated. These kinds of projects are not profit-oriented, and should be implemented on a large scale in Nigeria.

8. CONCLUSION

This article has focused on the available remedies which victims of environmental harm can seek legal redress for, if alleging violation of their constitutional right to life and human dignity under sections 33(1) and 34(1) of the Constitution respectively. Alternatively or concurrently, stakeholders can allege a violation of right to life and human dignity under Articles 4, 16 and 24 of the African Charter on Human and Peoples' Right which has been domesticated in Nigeria[112]. Depending on the nature of the violation, private persons can also institute court actions under the common law torts of Nuisance, Trespass, Negligence and the

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110 They include conciliation and mediation (S. 17, arbitration (S. 19), and investigation (S. 20). These are available for the settlement of environmental disputes, other than litigation.

111 Memorandum from the Steven A. Herman, EPA Office of Enforcement and Compliance Assurance, to Regional Administrators 1 (May 1, 1998) available at http://www.epa.gov/Compliance/resources/policies/civil/seps/fnlsuphermn-mem.pdf (accessed on 17/09/2012).

112 Cap. A9 Vol. 1, LFN, 2004.

Strict Liability rule in *Rylands v. Fletcher*. Moreover, due to the limitations of common law remedies identified in this article, some environmental statutes now contain specific criminal and civil remedies. However, these statutory provisions do not adequately provide means for granting reliefs to private persons. The direction of judicial decisions, perhaps until recently, has shown that the attitude of the judiciary in terms of remedies and reliefs granted in environmental adjudication is not largely encouraging.

These inadequacies leave most victims of environmental violation at the mercy of Governments at the different federating units, government agencies, Ministries and private bodies for the provision of administrative remedies. Administrative remedies are the commonest in environmental law in many parts of the world. This is, generally, not the case in Nigeria due to factors like administrative inefficiencies, bureaucracy, corruption and poor enforcement capacity.

In a broad sense, administrative remedies for resolving environmental conflicts should not be limited to acts of governments, government ministries or/and government agencies. It ought to extend to other private arrangements, private negotiations and also encourage more usage of Alternative Dispute Resolution (ADR) mechanisms for the settlement of environmental cases in addition to other administrative remedies which have been identified in this article. As regards statutory inadequacy, environmental statutes need to increasingly specifically assign remedies to particular environmental violation(s) contained in such statutes. These specifically assigned remedies will complement the present array of common law remedies which litigants largely employ in the enforcement of their environmental rights. This feat will definitely improve the current attitude to enforcement of environmental remedies. With this in place, Nigeria would be on the path to environmental security.