# CORPORATE LIABILITIES FOR HUMAN ENVIRONMENTAL RIGHTS VIOLATIONS IN NIGERIA: THE INTERPLAY OF RIGHT TO LIFE AND RIGHT TO SAFE UNPOLLUTED ENVIRONMENT

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**ABSTRACT**

*Corporate liabilities and remedies are two sides of same coin in that the ascertaining of the former brings the latter to fruition following the principle that where there a wrong there must be a remedy. Remedies are denied already impoverished litigants because of the huge cost involved in litigation, the herculean task of linking damage to the cause and other statutory cum procedural bottlenecks. This paper discussed the legal regime for corporate liabilities and remedies for violations of human rights in Nigeria. This paper deployed descriptive detailed analysis as a methodology to extricate some extant national, regional and international laws which imposes liability on body corporate in Nigeria and avails remedies in cases of proven culpability. Primary and secondary sources used include the Constitution, statutes and regulations made thereto, judicial decisions as well as articles journals and internet materials. It is found that corporate liabilities can lead to placing responsibilities on both the body corporates and their directing minds and remedies for violations of citizens' rights served as deterrence, remediate and restore victims of human rights as much as money can do. This paper concludes that corporate liabilities as provided in some extant laws are not sufficient to give citizens remedies in quantum commensurate to the dangers and harm that come to them as a result of their rights violations.*

## 2. Introduction

Corporations are clothed with the toga of a different personality from those who run their day-to-day activities, making it impossible to hold those involved in the acts or omissions of the corporation accountable to their victim. Again, some of the rights that are largely violated by some Corporations in Nigeria are not deemed within the private rights that are litigable by individuals. This trend had left more citizens helpless in the face of the violation of their rights for want of who to actually sue and under what law to bring the action. This paper intends to extend existing scholarship in the area of corporate liability for human environmental violations particularly in Nigeria and deployed a literature-based method in analysing Charters, Conventions and the Nigerian Constitution in comparison with what other civilised nations and their Courts have done in respect to particular rights discussed in this article.

Conventions ratified or acceded to by Nigeria relevant for the enforcement of rights violated by corporations or companies include African Charter on Human and Peoples Rights(Ratification and Enforcement) Act, 1983; International Convention on Civil Liability for Oil Pollution Damage (Ratification and Enforcement) Act, 2006; International Convention for the Prevention of Pollution from Ships, 1973; the Geneva Conventions Act; International Covenant on Economic, Social and Cultural Rights (acceded to on 29 July 1993). These legal frameworks created rights and obligations enforceable against corporate organization by liberal interrogation of their provisions in a particular case or circumstance.

This article covers areas of rights of individuals, especially the right to unpolluted environment and the available remedies against the operators of the corporation, that is, their managers and principal officers in person; to serve the dual purposes of justice and deterrence. And encourage or compel corporations acquire international best practices in their activities in Nigeria.

Access to justice for individual victims of corporate violations of right are determined by the individual's financial capacity to hire a lawyer and pay for filing of cases, procurement of expert witnesses to prove some specialised facts which will entitle the Claimant to his claims. Procedural difficulties and issues relating to interest that is over and above those suffered by other members of same community, cause of action and pre-action notices, neutrality of the judge and his willingness to appropriate the liberal positions of law on rights violations are all issues cloaking access to justice. Nowadays, by virtue of the Court's decision in *SERAP v. F.R.N.*(2008), the Plaintiff does not need to show that he has suffered any personal injury or has a special interest which needs protection but that there is a public right worthy of being protected which is being or had been breached by anybody whether corporate or not. The case of *Hassan v Aliyu (2010)* is indicative that Statutes of Limitation is another cloak to access to justice as it

prevents a victim from enforcing his right because time set by statute has lapse for such action to lie, the Court is then left with no option but to dismiss such suit. However, the Fundamental Rights Enforcement Procedure Rules (FREPR) 2009 excludes limitation law from human rights matters.

Corporate Liability means the extent corporate bodies are held responsible for the acts or omissions of its directing minds, privies and agents. 'Corporate' here includes business corporations which Government of Nigeria has controlling interest or companies registered or unregistered, who has business interest in Nigeria other than a one-off business adventure. Corporations are usually a creation of law but they operate by humans who are the hands, legs and thinking minds who determines what the corporations do. Liability might arise from contract; failure, refusal or negligence to perform duty imposed by statutes like the Companies and Allied Matters Acts (CAMA), National Environmental Standards and Regulations Agency (Establishment) Act as amended, African Charter on Human and Peoples' Rights and the 1999 Constitution as amended.

Remedies are consequence of a positive outcome from a judicial proceeding in which the Court makes an order or issues a writ or gives direction which it considers appropriate in the circumstances to enforce rights.

## 3. Theoretical Framework

Social engineering theory as propounded by Roscoe Pound entails that Law is an instrument for social engineering which strikes a balance between the competing interests in society. Humans thrive in society and society would always have interest which might be conflicting, laws and conventions become instructive to conceptualise these interests for the good of the society. This author agrees with Roscoe here because the business of the society is handled by corporations through their managers who might put their economic gains over and above the general health and wellbeing of other members of the society, hence the law creates regulations enforceable by individual members of the society against corporations or their managers in the event that any of their rights are violated.

The Courts in Nigeria had had to evolve in judicial activism in her interpretation of rights to safe and unpolluted environment as part and parcel of the inalienable right to life and living in an environment conducive for individual development in the society. Social engineering is a method for incorporating that which enhances existing rights as not to derogate from them or make their enforceability otiose; deploying conventions and protocols for the interpretation of such enshrined rights-giving them meaning within the corporate violations and remedies afforded them under the laws. This will create instances for elevation of environmental rights to private rights since individuals are the once directly impacted their depletion.

## 4. Enforceability of Human Rights

Human rights are rights which are inalienable, innate, inborn and natural to humans. They accrue to human being because they are humans. African Charter (1990) list some of the human rights to include right to life, liberty, livelihood, unpolluted environment, education, thought, religion and conscience, freedom of speech, movement, freedom from torture, degrading and inhuman treatment and right to health. Fundamental Human Rights are enforceable in Nigeria through the Fundamental Rights Enforcement Procedure Rules (FREPR) 2009. The 2009 Rules, in its overriding objective provides for the recognition and applicability of African Charter, United Nations Conventions and Treaties as well as other Charter, Conventions and Treaties which is brought to the knowledge of the Court or those which the Court is aware of; these are all applicable and enforceable in Nigerian Courts by virtue of the 2009 Rules. Adejonwo-Osho opined that there exist a connection between the right to life and the right to safe unpolluted environment. She furthered that humans live in an environment, if their environment is violated, it affects the quality of life, enjoyment of the right to life and preservation of same for the future generations. In her view which I agreed with,

> "it is welcoming that the connection between human rights and environmental protection which has been acknowledged by the judiciary in countries such as India is spreading across the globe to Africa" (Adejonwo-Osho p.3).

There is a spread of the connection between a safe unpolluted environment with the right to life and healthy living. These rights are inseparable and should not be separated. According to Marshall & Bashir (2020 p.137)

> "The essence of human rights is to promote and protect human lives and one of the impediments of this aim is that human rights cannot be enjoyed in a degraded environment".

This author cannot agree less, in that, life itself exist in an environment conducive for its continued existence. A life is lost if it is taken out of its natural environment; an environment devoid of excessive degradation beyond that which is sustainable for living.

Stockholm Declaration (1972), Principle 1, enshrines that Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. Rights to health and a healthy environment are enforceable under the international law and regional conventions domesticated in Nigeria; the Indian Supreme Court decision in *Rural Litigation and Entitlement Kendra v. Uttar Pradesh(1985)* which linked the right to healthy environment to the right to life can be applied in Nigerian Courts. This is so because the right to life cannot be fully enjoyed without a healthy environment free of polluted water and air. In the case of *Gbemre v. Shell(2005)* it was held that gas

flaring by Shell in the course of their oil exploration activities were illegal and unconstitutional since it violated the right to life enshrined in the 1999 Constitution of Nigeria.

## 5. Corporate Liability Regime for Violations of Human Rights

Initially, human rights were understood by the Court in *Federal Ministry of Internal Affairs v. ShugabaDarman* (1982) to be enforceable only against government and its agencies. But in recent times in *Gbemre v. Shell (2005),* it has been expanded to be enforceable against corporations or companies by individuals or community. In *Onwo v. Oko* (1996), individuals are held to possess the rights to enforce their rights against another including body corporate. The liability of corporate bodies occurs where the acts or omission of the corporate body violates any provision of the law on human rights or those provided for in regional or international laws. For instance, where the corporate body's pipeline is broken by its acts or omission or by reason of wear and tear causing damage or, where they dredge to facilitate navigation without regards to environmental impact of such activity. Where these activities affect the full enjoyment of the right to life and livelihood as well as that of an environment which encourages development, it would be said to have violated the rights of humans in that environment. It is argued that section 13 of the 1999 Constitution as amended has specific provision as to the applicability of the Fundamental Objectives and Directive Principles of State Policy upon a liberal interpretation of the Constitution on occasions of violations of human rights provided therein. Therefore, the enforcement of economic or environmental rights covered under the African Charter and the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, is derivable form section 7 of NESREA Act 2007 as amended which gave powers to the Agency to enforce and ensure compliance with the provisions of international agreements, protocols, conventions and treaties on the environment. The combinations of these: section 7 of NESREA Act with the overriding objectives to Fundamental Rights Enforcement Procedure Rules 2009, article 24 of the African Charter as well as section 33 of the Constitution established the enforceability of environmental and economic rights in the Nigerian Courts.

The Supreme Court in *Attorney-General of Ondo State v. Attorney-General of the Federation* (2002) had held that the justiciability of any provision in chapter II of the Constitution depends on an Act of National Assembly elevating such provision from being a pious declaration to an enforceable statute. Based on the aforementioned laws, the Nigerian Court can and should elevate, by liberal interpretation and comparative legal arguments, sections of the chapter II of the Constitution which has been legislated upon by the National Assembly like was done in the Indian case of *Minerva Mills v. Union of India (1980)* by their Court. For proper application of the African Charter to human rights actions in Nigeria, the cause of action must have arisen

from or connected to chapter IV of the Constitution or a violation of any article of African Charter on Human and Peoples' Right or any United Nations related Convention or Treaty to which Nigeria has acceded or domesticated or that is brought to the notice of the Court. It should not be an ancillary issue but primarily based on those statutes or treaties because the Fundamental Rights Enforcement Procedure Rules 2009 defined Human Rights to include any of the rights stipulated in the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act. Once the cause of action does not flow directly from the provisions of the article or constitution, it will be deemed to have been wrongly constituted. Hence, the Court will not have the *vires* to determine the case. African Charter ratification Act being an Act of the National Assembly should be interpreted to complement the Constitution that is, elevate provisions that were hitherto non-justiciable to justiciability status (Ekhator 2013 p.3). It should be employed to validate section 6(6)(c) which states that the section shall not apply to chapter II of the Constitution except as otherwise provided by this Constitution. Where the National Assembly passes a law, that enactment falls squarely into the exception in section 6(6)(c) of the Constitution. This agrees with the position of the Supreme Court in the case of *Okogie (Trustees of Roman Catholic Schools) and other v. Attorney-General, Lagos State* (1981), were it held inter alia that

> "I am of the opinion that the obligation of the judiciary to observe the provisions of Chapter II is limited to interpreting the general provisions of Constitution or any other statute in such a way that the provisions of the Chapter are observed, but this is subject to the express provisions of the Constitution."

The Supreme Court had held also that the Court should always interpret the Constitution liberally. If the Acts of the National Assembly elevates any provision of the chapter II of the Constitution to a Human Right enforceable by the Nigerian Court, the Court should recognise it as such. The preference for economic gains over right to life enshrined in the Constitution should be reversed (National Action Plan for the Promotion & Protection of Human Rights in Nigeria 2006 p.58). Corporate claim on right to own property does not negate the right to life by the private citizens. The Corporation's right to own property including the oil and gas licensed/leased to them flows not only from the Petroleum Act but the exercise of the right so created depends on compliance with Environmental Impact Assessment Act and the African Charter on human rights. The right to corporation ownership of oil and gas ends where the right to life by citizens of the country begins. If it is shown that the company or corporate body aided or abetted violations of human rights through oil spills, pollution of drinking or bathing water and other domestic purposes through its activities, they would be held liable (Amnesty International 2009). Companies are held liable because the purpose of human rights legislations is to end abuse of

human rights or to restore rights that are already violated.

All companies doing business in Nigeria are registered in Nigeria, and are subject to Nigerian laws regulating the conduct of companies. Therefore, where there are allegations of violation of human rights by companies, the appropriate laws should take their course for the enforcement of such human rights. Sequel to the aforementioned, one of the incidences of incorporation by section 43 Companies and Allied Matters Act (CAMA) (2020) is the enjoyment of all the rights of a natural person of full capacity by the company so registered. It can own property, it can sue and be sued, it is subject to the laws of the land and its conduct regulated as other persons. Those who manage the affairs of the company for themselves and other stakeholders are statutorily enjoined to do so in best interest of the company for the advancement of its business, preservation of its assets and promotion of its purposes in line with all the laws of the land including laws on human rights already enunciated above. A company's manager would not be said to act in the best interest of the preservation of its assets if it violates human rights and degrade the environment where its stakeholders live. However, where it does violate provisions on human rights from the Constitution or the other regional and international treaties, such company would be liable pursuant to the extant enforcement procedure rules (FREPR 2009). It is argued here that a violation of human rights by a company cannot be said to be in its best interest neither can such be in the promotion of its business. Rather, it may constitute a distraction from its legitimate business, loss of reputation and good will from both host community and country. Furthermore, Code of Corporate Governance expected companies to create value that will be beneficial to its host community too. The value is in the positive: not intending that communal environment be degraded for economic gains nor is human rights excluded from the value chain, hence, the managers of the company are to act:

> "in conformity with the laws of the country, observing the highest ethical standards and on an environmentally sustainable basis." the Code of Corporate Governance for Public Companies.

The law, Harmful Waste (Special Criminal Provisions, etc) Act 2004, on another hand, holds liable company's directors or managers or secretary or other such officers who violates the laws of the land by committing fraud or deployed the company to perpetuate illegality or evades the doing of that which is beneficial to the public. Whenever the acts or omission of companies constitutes a violation of the human rights of an individual or community, the Court can hold both the directing minds of the companies and the company itself liable for such violations by piercing the veil of incorporation and looking beneath the facade. It is analogous to what the Economic and Financial Crimes Commission (EFCC) is empowered to do under section 7 of their

Act. The Companies and Allied Matters Act recognises the act of the directing minds as those of the company for the purposes of criminal liability, including the acts of members in General Meeting or the acts of Board of Directors. The Criminal Code or Act defines any person to include company or corporate entities, making it easy to put guilt within corporate culpabilities. Aside of criminal liabilities, tort is another area an individual who alleges breach of his rights could get remedies.

Tortuous liabilities are imputed to companies in Nigeria where their act or omission constitutes tort such as negligence, nuisance and the principles of *Rylands v Fletcher*. Negligence arises when a party who owes duty of care to another failed, neglected or refused to carry out his duties and damage results to the party entitled to such duty which might exist as a matter of law or contract.The position in of the Court in *Seismograph Services Nig Ltd v. Mark* (1993) is that there must exist duty which must have been breached and damage resulted, to establish negligence. Applicants must proof the existence of duty of care owed them by company and such duty of care was violated by the company. This requirement is satisfied if the Applicant proved proximity of the complained act to their residence or land or other property as was decided in *Friday Alfred Akpan v. Royal Dutch Shell* (2013). It settles for the principles of neighbourhood. So that where a company does a thing which it ought reasonably to know would cause damage to any person, it is held liable for breach of duty of care. In *Stevenson v. Donoghue (1932)*, Lord Atkin said

> "The rule that you are to love your neighbour becomes in law, you must not injure your neighbour; and the lawyer's question, who is my neighbour? receives a restricted reply. You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is my neighbour? The answer seems to be – persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question."

The negligent act must have occasioned damage to the Applicant/Claimant. It is the proof of damage that sometimes is herculean for the Claimants because they may need to link the act of the company with the damage they complained about. However, where the Court had already held the defendant liable for breach of duty of care, it would, almost be automatic that damage will follow to remedy the breach. Assessment of damage to ascertain what the Applicant ought to receive to assuage the wrong or put them in a position they ought to be had the wrong not been done is the necessity for expert evidence in determining the quantum of damage.

On the other hand, nuisance arises on the interference of another over the enjoyment of proprietary rights of another. The basic issues to look out for are whether

there was injury occasioned by the use of the company's property. The law is now settled that in public nuisance, there is not requirement for obtaining the consent of the Attorney General since the decision in the case of *Adediran and Anor v. Interland Transport Limited* (1992) which favoured the application of section 6 (6)(c) of the 1979 Constitution which is same as in the 1999 Constitution. On the rules in Ryland v. Fletcher, it is held that the person who brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it at his perils, and if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape. The exception to the rule is where the Plaintiff caused the injury or the damage is caused by third party or with the consent of the Plaintiff. Storage of crude oil or its waste constitutes a non-natural use of land in Nigeria. Once it is proved that the defendant stored crude oil and the like on a land and it escapes and causes damage, the rule applies. Whenever, the Plaintiff's property is damaged or injured, the Ryland rule applied.

Environmental Laws create a legal regime which also defines the corporate liability of companies in Nigeria. Sections 20 to 27 of the National Environmental Standards and Regulations Agency (NESREA) Act as amended enacts air quality and atmosphere protection that promotes public health or welfare and the natural development and productive capacity of the nation's human, animal, marine or plant life. Section 20 (1) of NESREA Act when read together with section 33 of the 1999 Constitution as amended underscores the relationship between human right to life and the air quality humans should have to actually live the life enshrined in the Constitution. The Agency is empowered to make regulations for the protection of air and the atmosphere. If regulations made pursuant to section 20 (1) of NESREA Act is violated by body corporate, such a corporation commits an offence and is liable on conviction to a fine not less than ₦2,000,000.00 and an additional fine of ₦50,000.00 for every day the offence subsists. If a person violate any such regulations, upon conviction is liable to a fine not less than ₦200,000.00 or imprisonment for a term not less than 6 months or both fine and imprisonment and additional fine of ₦20,000.00 for every day the offence subsists. It is argued here that whenever it is proved that a body corporate had been convicted for violation of Regulations made pursuant to section 20(1) NESREA Act, that should ground the lifting of the corporate veil to unmasking the directing minds and punishing them under section 20 (3) NESREA Act to serve as deterrence bearing in mind the grave health danger caused to citizens as a result of air pollution by corporate body or persons. Sections 21 (3), 22(3,4), 23(3,4), 24(4,5), 25, 26 (3,4) & 27(3) NESREA Act makes similar provision for violations relating to ozone protection, noise, federal water quality standards, effluent limitations, environmental sanitation, land resources and watershed quality and discharge of hazardous substances and related offences,

respectively. These provisions are robust enough to accommodate provisions of the Constitution and the African Charter to ground enforceable rights to life and environment and creating liability to corporate bodies and their operating minds. It is further argued that mandamus can lie to compel the doing by the Agency its functions above adumbrated or the conferment on individuals or groups such powers exercisable by the Agency.

The protection of the environment is a vital part of contemporary human rights doctrines, for it is sine qua non for numerous human rights such as the right tohealth 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, international courts decisions such as *Gabcikovo-Nagymaros* (1997) and other humanrights instruments. Refusal to accord the humans and Nigerians their rights to unpolluted environment is, to use the words of Atapattu, "The Right to a Healthy Life or the Right to Die Polluted?" (Atapattu 2002 p.1). It is like reversing the right to life into a life to die polluted.

## 6. Remedies regime for Corporate Violations of Human Rights

**6.1 The constitutional remedies** for corporate violation of human rights is captured in section 46 where the constitution states that anyone who alleges that his right(s) under chapter is or is likely to be violated by anybody or government or corporation can apply to the High Court in any state in Nigeria for the enforcement of his right(s). Fundamental Rights Enforcement Procedure Rules (FREPR) 2009 sets out how to enforce rights in Nigeria. It also enlarged the rights to include rights recognised in the African Charter domesticated in Nigeria which is enforceable upon violations by corporations. The FREPR in its overriding objectives provides inter alia

> "(a) The Constitution, especially Chapter IV, as well as the African Charter, shall be expansively and purposely interpreted and applied, with a view to advancing and realising the rights and freedoms contained in them and affording the protections intended by them."

Under the FREPR, the Courts are expected to expand and not restrict the applicant's rights and freedoms by recognising regional and international bills of rights cited to it or brought to its attention or the ones the Court is aware of, including the African Charter on Human and Peoples' Rights and other instruments/protocols in the region and the Universal Declaration of Human Rights and other instruments/protocols of the United Nations human right system, among others. Paragraph 3(e) of the Preamble to FREPR (2009) encourages Courts not to dismiss or strike out any human right case on the grounds of *locus standi.* Anyone acting in his own interest; or on another person's interest; or anyone acting as a member of, or in the interest of a group or class of persons; or anyone acting in the public interest, and Association acting in the interest of its members or other individuals or groups are

entitled to do so by paragraph 3(e) (i-v) of the Preamble to that Rules. The leave of the Court is no longer a requirement for enforcement of rights in Nigeria by the FREPR 2009. The Court can issue such writs and give such directions as it may consider appropriate for the purpose of enforcement or procuring the enforcement of the rights of the aggrieved person under the Constitution, African Charter or Universal Declarations. It can order payment of damages, restitution, declaration, payment of cost, compensation, guarantee of non-repetition, rehabilitation and injunction following the position in *Gbemre v. Shell* supra. When the Court finds that there had been a violation of the Constitution or an unlawful action by the defendant, the Court may declare the unconstitutionality or the unlawfulness of such action in its declaratory reliefs. Where the applicant is in custody it can order that the applicant be released from custody or make injunctive reliefs against future incarceration on same issue. Compensation or damage can be awarded in adequate circumstances as decided in *Director of SSS v. Agbakoba* (1999).

**6.2 Administrative remedies** are also available to individuals for corporate organisations violations of their human rights. Companies and Corporations which government has controlling interest are subject to administrative law by virtue of Paragraph 14, Part II, Fifth Schedule to the Nigerian Constitution. The decision of such corporations or companies is subject to judicial review to ascertain its fairness and compliance with Rules. Judicial review is made pursuant to section 46 of the Constitution to check administrative regularity of an action, the constitutionality of, legality or reasonableness of procedure adopted in arriving at a decision by the administrative body. Where the administrative action is in failure of duty, *mandamus* may lie to compel the performance of such duty to the applicant.*Mandamus* is issued to direct the doing of a duty whether statutory or contractual when it established that discretion is abused as was decided in the case of *Padfield v. Minister of Agriculture, Fisheries and Food* (1968); or that duty accruing to the applicant had not been performed by the person or body that is supposed to so do. It lies to compel a public body or corporation or companies which government has controlling interest. Once a statute creates duties, *mandamus* will lie even if the particular administrator was not imposed with such duties.The court may instead direct that the act be done so far as practicable by the person applying for the order of *mandamus* at the expense of the defaulting party. In the enforcement of human rights, anyone can apply foran order of mandamus in furtherance of the expansive nature of the FREPR 2009.

Order of *certiorari* will lie to quash a decision that has already been made. It is available where an inferior court or administrative authority has acted in excess of its powers or abused jurisdiction or contrary to the rules of natural justice. It can also lie where there is error of law on the face of the record. It is useful in the review

of the procedure rather than the legality of an administrative decision.

Prohibition lie to prevent such bodies from acting or continuing to act in excess or abuse of jurisdiction or contrary to the rules of natural justice this position was decided *R v. Electricity Commissioners, ex parte London Electricity Joint Committee Company Ltd* (1924). The Court can grant injunction for the doing of a particular thing unless it is impossible or unlawful or unenforceable. It will lie to prevent the administration breaking the law in much the same circumstances as it will lie to restraint individual.

Declarations are another remedy by order of Court which is particularly in-exhaustive in the categories of it applicability in the field of private or public law. Where the rightsof an applicant is limited by a law, contrary to the *grund-norm*, declaration may issue to challenge such legislations. Declaration is granted when there is a successful challenge of an administrative action or deed. Unlike *certiorari* and prohibition, declaration can lie to declare decisions of domestic authority or individual *ultra vires*.And in appropriate circumstance damages or compensation can be awarded as was in the case of *Governor of Lagos State v. Ojukwu* (1986).

Damages mean the pecuniary compensation obtainable by a successful party in an action for a wrong which is either a tort or a breach of a contact. See *Anambra State Environmental Sanitation Authority &Anor V. Raymond Ekwenem* (2009). The Court in *British Airways v. Atoyebi (2014)* held

> "The primary object of an award of damages is to compensate the plaintiff for the harm done to him or a possible secondary object is to punish the defendant for his conduct in inflicting that harm."

**6.3 National Human Rights Commission** is empowered to deal with all matters relating to the promotion and protection of human rights guaranteed by the Constitution of the Federal Republic of Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of Racial Discrimination, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and other international and regional instruments on human rights to which Nigeria is party. Its functions includes to Conduct its investigations and inquiries in such manner as it considers appropriate; Institute any civil action on any matter it deems fit in relation to the exercise of its functions under this Act; Make determination as to the damages or compensation payable in relation to any violation of human rights where it deems this necessary in the circumstances of the case. The Commission has enormous sources of its powers in dealing with human

rights in Nigeria. It is not clear if individuals can depend on the international and regional Charters and Conventions to challenge in Court corporate violations of human rights in Nigeria and; especially enforcement per se. It has powers to issue summons to any person or authority to appear, interrogate any person or corporation for the purposes of public enquiry aimed at the resolution of a complaint of human rights violation. The Commission can issue warrant to compel attendance of a person or authority and pursuant to its powers determine that a thing had been wrongly done to a complainant and compel compensations to victims of corporate human rights violations. It is an affordable medium for not-too rich persons because it can institute on the behalf of a victim a civil action for the recovery of compensation it had determined.International human rights law confirm that corporate organizations can be held liable and responsible for their human rights abuses and infringements.

The Alien Tort Claims Act of the United States enables a claim for acts of violations of human rights perpetrated by corporations on foreign soil. In the case of *Doe v. Unocal (*2002*)* it was held by a United States District Court that multinational companies or enterprises could be directly liable for human rights violations under the Alien Tort Claims Act. The company was held responsible for rape, murder, torture and forced labour perpetrated through soldiers hired by the company to secure its oil pipelines in the Burmese village. The District Court found for the survivors and awarded compensation accordingly. The same is argued here for the victims of corporate violations of human rights.

## 7. Conclusion

Corporations may in the course of their activities violate the rights of citizens to a safe unpolluted environment and deny liability on the grounds of corporate personality. It had been established in this article that such claims by corporations can no longer hold waters in the face of 2009 FREPR and the decision in Gbemre v Shell already adumbrated. The responsibility for these violated are to be borne by both the corporation and their directing minds to serve as deterrence and set the pace for a health best practices by the corporation in their bid to actualizing their corporate goals and objectives. Roscoe's intendment for social engineering through law would have been achieved where liability is borne by the directing minds of a corporation. This perspective advances the position of authors earlier cited that the enjoyment of human rights depends a lot a safe, unpolluted environment conducive for human development and economic survival.

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