



RIGHT TO LIFE OF THE ENVIRONMENT: AN INALIENABLE HUMAN RIGHT

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Abstract

This article is a discourse on the violation of the right to life of the environment by individuals and governments. Just as there is drug and child abuse, so have we abused and violated the sacred right to life of the environment with little or no feelings of harm done to it. The life of the environment is sacred, and therefore, deserved much more legal provisions on right to life as provided for human rights. This is because, legal provisions to protect human life, referred to as human rights are engraved under the laws for humans to understand that human life is sacred, hence, protected both by municipal and international laws. But the right to life of the natural environment, although loosely protected municipally and internationally by law and instruments, is yet to be given the required legal backings it deserves. Just as it is wrong to harvest human parts or kill human beings for revenue generation, it is equally wrong to take the life of the environment because we want to raise revenue. Failure to recognize this, we have violated the right to life of the environment by means of revenue generation both as individuals and governments, necessitating the accelerated nature observed in climate change and global warming. This, we contributed by over harvesting natural resources especially oil and gas causing high carbon footprint, nuclear energy, indiscriminate dumping of industrial waste at sea and on land, vandalization of oil and gas installations causing environmental pollution, burning of expired tyres to roast cows for consumption, burning of tyres during festive periods, bush burning, and use of herbicides to clear weeds on farms among others. All these human activities put the life of the environment in danger, thereby violating the right to life of the environment upon which human health and life of other living creatures depends

Keywords: Concept, Right, Environment

1.0 Introduction

George Floyd's sacred life was squeezed out of him even as he continuously pleaded, "I Can't Breathe" without paying or given the slightest attention by the police operatives.¹ This act was unanimously condemned across the world as a dastardly act of murder.² But, as humans possess electrical system in the form of a heart-beat,³ signifying the presence of a sacred life, that can be violated by squeezing it out like in the case of George Floyd,⁴ the natural environment also possesses a magnetic field system functioning as heart-beat, embodying sacred energy of life.⁵

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¹B Okri, 'I Can't Breathe: Why George Floyd's Words Reverberate Around the World' (2021) [12] (1) *Journal of Transitional American Studies*, 46.

²A Speckhard, 'I Can't Breathe' (2020) *ResearchGate*, 387.

³M E Silverman and Others, 'Why Does the Heart Beat?: The Discovery of the Electrical System of the Heart' (2006) *AHA/ASA Journals*, 277.

⁴B S Fahmi, 'Human Rights Violation: A Narrative Analysis of George Floyd's Case in the U.S. News Websites' (2022) *Arab Journal of Media & Communication Research*, 36.

⁵A K Kerton, 'Climate Change and Earth's Magnetic Field: A Possible Connection' (2009) [20] (1) *Sage Journals*, 1.



This energy of life permeating the universe, including the environment suffers violation through human activities.

The interconnectedness, between humans and the environment, suggests that, whatever affects the environment, affect human life as a result of the inseparable nature between human beings, plants, and the earth's magnetic field.⁶ In other words, the natural environment is also a living being deserving adequate and more effective legal framework providing for its right to life. This is because, right to life of the natural environment is an automatic right to life of human beings.⁷

Unfortunately, it is the natural environment, that is the earth, as a living planet,⁸ that is the least protected living, or animate being. In other words, the earth's right to life is the most violated in the history of human civilizations. The existence or life of the natural environment in creation predates the life of human beings. We, as humans did not come into the natural environment, we came out of the natural environment hence, one with it, being the reflection of the Creator in the physical world of matter.⁹ This is because, the entire universe, whether physical or nonphysical creation is a manifestation of the energy of the manifestor, which is Consciousness, or what some referred to as God.

Therefore, if there is right to life the government has to protect through adequate and effective legal frameworks, it should be right to life of the natural environment. Although, governments have put in place laws and instruments both at the local and international levels with regards to protecting the natural environment. It appears the level at which humans are given right to life under several legal frameworks, the natural environment has not been provided an equal legislative right to life through which its breath of life can be adequately protected. To understand this, it is important to know what rights portends.

2.0 Rights Under the 1999 Constitution as Amended

Rights are legal, social, or ethical principle of freedom or entitlement enshrined in a grund-norm such as a constitution.¹⁰ Rights are the fundamental normative rules about what are allowed, or owed to a people in accordance with the legal system, social convention, or ethical theory.¹¹ Rights are the essential building blocks in disciplines such as law and ethics, especially theories of justice and deontology.¹²

⁶ D N Baker, 'Geomagnetic Field Sources: From the Earth's Core to the Sun' (2019) *Cambridge University Press*, 41.

⁷ A healthy environment begets a healthy human life, as a polluted environment affect the health of humans.

⁸ D B Botkin and E A Keller, *Environmental Science: Earth as a Living Planet* (California: John Wiley & Sons Inc 2011) 80, 143, 235.

⁹ A Shah and M Patel, 'Earth Health and Human Health' (2024) [12] (6) *International Journal of Research in Medical Sciences*, 2212.

¹⁰ Constitution of the Federal Republic of Nigeria 1999 as amended, s. 33-43.

¹¹ A Ezioni, 'Life: The Most Basic Right' (2010) *Journal of Human Rights*, 100.

¹² D McNaughton and P Rawling, *Oxford Handbook on Deontology* in D Copp (ed) (Oxford: Oxford University Press 2018) 12.



Rights are fundamental to any civilization, and the history of social conflicts is often bound up with attempts both to define and to redefine them.¹³ Rights are so sacred to human existence that, they structure the pattern of governments, the content of laws, and the shape of morality of a given society.¹⁴ Rights are widely regarded as the basis of law, but some of the laws enabling the rights for the government to carry out certain things could be bad, leading to violation of rights, which some theorists suggest, could turn civil disobedience itself, as rights of the people as advocated by Martin Luther King Jr.¹⁵

There is a considerable disagreement about what is meant precisely by the term rights.¹⁶ It has been used by different groups and thinkers for different purposes, with different and sometimes opposing definitions, and the precise definition of this principle, beyond having something to do with normative rules of some sort or another, is controversial.¹⁷ In this context, however, it is referred to right to a healthy existence of the environment.¹⁸

3.0 Rights Under the African Charter on Human and Peoples' Rights 1988

The African Charter on Human and Peoples' Rights also known as "the Banjul Charter" could be referred to as a continental or regional human rights instrument aimed at promoting and protecting human rights, and basic freedom within the African sphere. It is the brain child of the then Organization of African Unity (OAU) now replaced with the African Union (AU).¹⁹

Paragraph 8 of the preamble to the ACHPR expressed that, civil and political rights cannot be dissociated from the economic, social, and cultural rights; and that the satisfaction of economic, social, and cultural rights is what guarantees the sole enjoyment of civil and political rights. This appears to suggest that the economic satisfaction of the people is part of their civil and political rights, and therefore, governments must ensure economy stabilization. Again, Article 24 provides that all peoples shall have the right to the general satisfaction of the environment favourable to their development.

This instrument is like binocular suggesting the importance of rights within the human civilizations. Rights Under the Universal Declaration on Human Rights 1948 The Universal Declaration on Human Rights of 1948 is an epoch in the history of human evolution towards being humane and respect for other fellow human beings irrespective of their status in life. It states: "Recognition of the inherent dignity and of equal and inalienable rights of all members of the human family is the foundation of

¹³ P Gready, 'The Politics of Human Rights' (2003) [24] (4) *Third World Quarterly*, 745.

¹⁴ A E Obidimma, 'The Impact of Human Rights on Good Governance and Sustainable Development in Nigeria' (2020) [8] (2) *Global Journal of Politics and Law Research*, 11.

¹⁵ H J Richardson, 'Dr. Martin Luther King, Jr. as an International Human Right Leader' (2007) [52] *Villanova Law Review*, 471.

¹⁶ M B Sener, 'A Review of the Meaning and Importance of the Universal Declaration of Human Rights' (2021) [7] (3) *International Journal of Political Studies*, 15.

¹⁷ T V Ogan and S L Nyeenenwa, 'Human Rights Foundations: A Philosophical Perspective' (2017) [3] (2) *International Journal of Capacity Building in Education and Management*, 9.

¹⁸ There supposed to no legal right to life that ought to be more sacrosanct than the right to life of the environment given the fact that a healthy human life depends on a healthy environment.

¹⁹ African Union (AU) is a replacement and modernization of the old Organization of African Unity (OAU).



freedom, justice and peace in the world”. It thus appears that respect for the dignity of human persons in leadership and law-making of any country is essential.²⁰

Article 10 of the Declaration provides that all human beings are born free and equal in dignity with rights, and that, they are endowed with reason and conscience which should be used and conducted towards one another in the spirit of brotherhood. Article 2 declared that everyone is entitled to the freedom and rights set forth under the Declaration irrespective of the political or religious affiliations, birth, language, gender, colour, territorial or sovereignty status.

Article 3 entitles every individual to the right to life, liberty and security of persons.

Similarly, Article 4 prohibits all forms of slavery; while Article 5 frowns at all forms of torture, cruelty and inhuman or degrading treatment or punishment. Not forgetting article 6 of the Declaration, which entitles everyone to the right of equal recognition before the law.

A quick glimpse of these provisions under the Declaration makes one to feel that, the natural environment is not given adequate rights as done for human rights.

A toxic environment could lead to high level of mortality for children and women during child-birth.²¹ That is an infringement of right to life of women because, a polluted environment affects pregnant women.²² Right to life is said to be the right of having one’s life protected from birth, and the right to survive and develop appropriately.²³ Not forgetting the right to life under Article 3 of the Declaration.

But lack of adequate right to life of the environment creates environmental hazards that leads to human health challenges, leading to infringement of these rights under the declaration. This is because, once the environment is contaminated, the health of the people must be affected, leading to automatic violation of the right to life of the people as provided under Article 3 of the Declaration.

A violation of Article 3 is an outright violation of Article 5 which prohibits cruelty, inhuman and degrading treatment against the people, and article 6, which provides for the right of equal recognition before the law. If “human rights” are so fundamental, and “right to life” is so sacred before these laws, then, what is life, which concept is yet to be ascribed to the environment, as deserving right to life?

4.0 Life: An Incomprehensible and Undefinable Phenomenon

Issues concerning life are beyond the comprehension of humans.²⁴ Humans can only make ideas and concepts about life, its meaning and origin.²⁵ The concept on the origin and definition of life are

²⁰ J N Aduba and S Oguiche, *Key Issues in Nigeria’s Constitutional Law* (Nigerian Institute of Advanced Legal Studies 2014) 159.

²¹ S I Oji and N K Akani, ‘Towards Protection and Enforcement of Reproductive Rights of Women in Nigeria’ (2020) [1] *Journal of Public Law*, 3.

²² J Hopkins, ‘Study: Fracking Industry Wells Associated with Premature Birth’ (2015) *Blumberg School of Public Health*, 18 <<https://publichealth.jhu.edu>> accessed 16 July 2025.

²³ O Udechukwu, ‘A Comparative Analysis of Right to Life Under the Constitution of Nigeria 1999 (as Amended) and the Constitution of India’ (2020) [1] *Journal of Public Law*, 123.

²⁴ Life is a phenomenon that stands outside the comprehension of humans because,

²⁵ Human can only understand life through existence, but the very essence of life is far beyond the grasp of humans.



phenomena that may not have a universal acceptability.²⁶ There are several theories about the origin of life, with some suggesting a common ancestry origin.²⁷ Some other scientist opines that life originates from shallow marine environments to which ancient organisms were responsible.²⁸ But, for there to be life, there must be existence. And for something to exist, means something caused it to exist.

That is the reason some have suggested that Consciousness is the origin of life.²⁹ Therefore, life itself has a Source, and that Source, as the manifester of the life is the force of existence.³⁰ In other words, for there to be natural environment such as forest, lakes, air, water, soil, and all existences reflecting the environment, something must be responsible for their appearance.³¹

5.0 Right to Life: The Epi-fundamental Right

Life, which phenomenon is beyond human comprehension, deserves preservatory right through statutory pronouncement or provisions. Hence, right to life is epi-fundamental right. Epi-fundamental because, it is the basics of every other right. There are many legal provisions granting and guarantying rights to save human life.³²

That is why right to life is the most basic right under the 1999 constitution of the Federal Republic of Nigeria as amended.³³ However, it is important to understand that, right to life of a human being is incomplete if the right to life of the environment is not guaranteed. This is due to the fact that, there must be a healthy environment for there to be a healthy human life. This is because, a healthy environment represents a healthy human life. To understand the importance of life, we must first understand that the natural environment possesses life as well.

6.0 Life of the Environment: The Living Energy of Nature

There is no universally acceptable definition of environment.³⁴ Generally, however, the natural environment could be seen as a concept concerning the surroundings or the conditions in which human beings, animals, plants, and other living organisms lives and operates; or the natural world particularly, natural geographical areas.³⁵ In other words, natural things such as air, water, cloud, mountains, rocks, forest, soil and the entire ecosystem and their relations to galactic bodies, represent the natural environment.³⁶

²⁶ D Duner and Others, 'The History and Philosophy of the Origin of Life' (2016) [15] (4) *International Journal of Astrobiology*, 24.

²⁷ M C Weiss and Others, 'The physiology and Habitat of the Last Universal Common Ancestor' (2016) *Nature Microbiology*, 1.

²⁸ A P Nutman and Others, 'Rapid Emergence of Life Shown by Discovery of 3.700-Year-Old Microbial Structure' (2016) [537] *Nature*, 535.

²⁹ D J Chalmers, 'The Meta-Problem of Consciousness' (2018) [25] *Journal of Consciousness Studies*, 6.

³⁰ The primordial existence is the source of life, which is God.

³¹ The zero-point energy, which cannot be further subtracted, which is God, is the origin of life.

³² A Etzioni, 'Life: The Most Basic Right, (2010) *Journal of Human Right*, 100.

³³ Constitution of the Federal Republic of Nigeria 1999 as amended, s. 33.

³⁴ A Kumar, 'Brief Introduction of Environment, Ecology, and Environmental Pollution' (2018) [8] (1) *Journal of Modern Management and Entrepreneurship*, 314.

³⁵ J Mukhopadhyay, 'Environment in Context: A Perspective from Environment Behaviour Relations' (2016) [5] *International Journal of Humanities and Social Science Invention*, 34.

³⁶ M Fossati and Others, 'The Definition of Environment and its Relations to the Quenching of Galaxies at $z=1-2$ in a Hierarchical Universe' (2014) [446] *Oxford University Press*, 2582.

But beyond this physical appearance of what we see as environment is the real Being whose image, the environment appears as a symbol or archetypal of the Being.³⁷ This nomenclature or concept called environment is deeper than what we can comprehend with our material senses because, there is a Supreme Being behind the manifestation of the natural environment.³⁸

Therefore, the life of the natural environment is sacred, deserving much more legal provisions on rights to life, just as humans are provided for, under numerous legal frameworks, the inalienable right to life. This is because, the life of the natural environment is as sacred as the life of human beings, deserving rights to live. In other words, there are multiple activities we carry out as humans that violates the right to life of the environment, which are not regarded as such.

7.0 Concept of Right to life of Environment and Right to Human Life

Concept is an essential phenomenon in human civilization. It is an abstract idea in the human mind about a particular state of affair, which is very difficult to address or define.³⁹ That is why one's concept about a particular thing may vary from the concept of that same thing in the mind of another.⁴⁰ This is because, the evolution of the human race is in different stages and paces.⁴¹ And which the concept of evolution itself cannot be completely understood.⁴²

The sacredness of life of a human being has through concept, been given the desired importance by every civilization, but not that of the natural environment. For example, a person responsible for another's suffering from food poisoning,⁴³ or caught putting sipper in someone's food can be charged to court for attempted murder like in the Vicky Chalder's case.⁴⁴ In the same vein, a person can also be charged to court for murder or attempted murder for deliberately delivering contaminated milk.⁴⁵ There are numerous cases of people charged to court for deliberately poisoning drinks or food.⁴⁶

On the contrary, poisoning the environment is not seen as attempted murder.⁴⁷ If any at all, may be due to the negative impact it caused to humans, not because of the environment. But the carbon emission from oil and gas fields or gas flaring, CO₂ from car exhaust, herbicides used on weeds, generator fumes, and burning of expired tyres are action equals to poisoning someone's food with snipper, but which

³⁷ T Troward, *The Hidden Power* (New York: Robert M. McBride & Company 1925) 1-42.

³⁸ T Troward, *The Law and the Word* (New York: Robert M. McBride & Company 1917) 1, 18, 75.

³⁹ B Hjordland, 'Concept Theory' (2009) [60] (8) *Journal of American Society for Information Science and Technology*, 1519.

⁴⁰ Z B Takaoglu, 'Understanding the Concept of Energy Through Definitions, Drawings, and Metaphors' (2024) [117] (1) *The Journal of Educational Research*, 27.

⁴¹ S Jozic, 'Different Stages of Evolution of Humankind' (2016) *International Journal of Empirical Education and Research*, 47.

⁴² B Bogin and B H Smith, 'Evolution of Human Life Cycle' in Stinson, Bogin, and O'Rourke (eds) *Human Biology: Evolutionary and Biocultural Perspective* (New York: Wiley-Liss 2000) 377.

⁴³ H Susanto and Others, 'The Existence of Proof of Criminal Liability for Food Poisoning is Reviewed Under the Law Number 18 of 2012 Concerning Food' (2022) [2] (1) *Journal of Social Research*, 119.

⁴⁴ D J Warnes, 'The Vicky Chalder Case' (2016) [4] (1) *Journal of Forensic Science and Criminology*, 1.

⁴⁵ G R Dalziel, *Food Defence Incidence 1950-2008: A Chronology and Analysis of Incidents Involving the Malicious Contamination of Food Supply Chain* (Nanyang Technological University Press 2009) 7, 8, 12.

⁴⁶ K D Watson, 'Medical and Chemical Expertise in English Trials for Criminal Poisoning, 1750-1914' (2006) [50] *Medical History*, 373.

⁴⁷ The same way deliberately poisoning food has a criminal liability for murder, criminal liability for murder should also be imposed for environmental pollution.

concept about the act is yet to metamorphosed to the level it could be deemed as that which could be charged to court for attempted murder.

Yet, if we understand the damage done to the environment by human activities, we would recognize that, the person deliberately poisoning food with arsenic chemical,⁴⁸ and the person flaring gas, causing avoidable oil pollution,⁴⁹ discharging chemicals or some industrial waste indiscriminately,⁵⁰ and using herbicides to kill weeds on the farm,⁵¹ leading to environmental poisoning is equally guilty.⁵²

These acts outrightly violating the right to life of the environment, which could be charged for attempted murder of the life of the environment. But because the concept about the life of the environment is not that which is given sacredness, these dastardly acts are seen as normal practices.

Until our concept about the environment has evolved to ascribe life upon it as a sacred living being, whose life, we have attempted through several means to annihilate, the inalienable right to life of the natural environment will not be given its desired attention through innovative legalism. That is why, although we have laws on protection of the environment, we have no laws for the right to life of the environment. Therefore, at this juncture, it is pivotal to look at some of the municipal and international laws or instruments regarding the protection of the natural environmental, whether, these laws or instruments actually view or consider the natural environment as an element deserving right to life.

8.0 Concept of Right to Life of Environmental and Environmental Protection

It is fundamental to understand that, there is a huge difference between statutory provisions for environmental protection and statutory provisions granting right to life of the environment. This is because, something statutorily given the right to live automatically generate a concept about the sacredness of the life of that thing.

That is why there are both municipal and international statutory provisions that provides for the protection of the environment. But there is none providing for the right to life of the environment as a concept designed towards respecting the sacred life of the environment like that given to human beings. These two concepts must be given different meaning in order to extract from them some images that could be understood by the human mind.

The Geneva Convention of 1949 and its Protocols of 1977 made drastic attempts to reduce the violation of human rights during war, which is the reason of coming into being of the rules governing human

⁴⁸ A Duncan and Others, 'Homicidal Arsenic Poisoning' (2014) [52] (4) *Sage Journal*, 1.

⁴⁹ Z Asif and Others, 'Environmental Impacts and Challenges Associated with Oil Spills on Shorelines' (2022) *Journal of Marine Science and Engineering*, 1.

⁵⁰ R Chughtai and Z Asif, 'Study Fate of Pollutants Due to Oil Spill in Sea Water Through Multimedia Environmental Modeling' (2021) [18] *International Journal of Environmental Science and Technology*, 761.

⁵¹ A Parven and Others, 'Herbicides in Modern Sustainable Agriculture: Environmental Fate, Ecological Implications, and Human Health Concerns' (2024) [22] *International Journal of Environmental Science and Technology*, 1181.

⁵² G Al-Samarai and Others, 'Reducing Environmental Pollution by Chemical Herbicides Using Natural Plant Derivatives: Allelopathy Effect' (2018) [25] (3) *Annal of Agricultural and Environmental Medicine*, 449.

conducts during armed conflicts under the Humanitarian Law.⁵³ All these laws are geared towards protection of human life, while that of the natural environment was not adequately considered.

For instance, if there is war between countries, certain weapons are prohibited for use because the law targets protection of human lives as a result of the concept of right to life of human beings.⁵⁴ But, if nuclear bomb is detonated in the forest or ocean for test,⁵⁵ no one considers it as an act squeezing out life of the environment, violating the right to life of the environment.⁵⁶ This is because, our concept about environment is too myopic, and as a result, we do not perceive the life of the environment as we do the life of human beings. That is why we have carried out several nuclear tests, to the detriment of the environment,⁵⁷ which is actually to the detriment of human lives and other organisms responsible for the balancing of the universe.⁵⁸

9.0 Concept of Environmental Protection: The 1999 Constitution as Amended

The principal municipal law on the subject matter, that is, protection of the environment in Nigeria is the 1999 Constitution as amended. It provides for the protection, improvement, and safeguard of the water, air, land, forest, and wild life.⁵⁹ But how do you protect the air, land, water, forest and wild life if the life of the host of these things or elements is not seen as sacred as to apportion the legal concept of right to life as that apportioned to human right to life.

With the provision under the Constitution of the Federal Republic of Nigeria 1999 as amended providing for the safeguard of the Nigerian environment signals how fundamental the life of the environment ought to have been under the laws. But it is not the enactment of laws that suggests the seriousness of the law, but it is the sacredness attached to the concept of what the law is about to protect that its implementation could have effect. That is why, looking at the methods of implementation of environmental laws in Nigeria portrays a people who are yet to have a good grasp on the concept of environment and its liveness.

10.0 Environmental Protection under the Climate Change Act, 2021

Climate change has been identified as perhaps the biggest global challenge facing humanity.⁶⁰ Consequent to that, Nigeria enacted the Climate Change Act (CCA) with a view to address climate change challenges. Section 1 of the CCA sets the main objectives, which bothers on achieving a low greenhouse-gas-emission (GHG), green growth and sustainable economic development in Nigeria. Sub-

⁵³ R Coupland and K Leins, 'Science and Prohibited Weapons' (2005) (308) *ResearchGate*, 1841.

⁵⁴ J A Al Raisi and A S Bin Rosmen, 'Restrictions of Methods of Warfare in International Humanitarian Law' (2022) [12] (9) *International Journal of Academic Research in Business and Social Sciences*, 1752.

⁵⁵ R Pravalie, 'Nuclear Weapon Tests and Environmental Consequences: A Global Perspective' (2014) *Journal of the Human Environment*, 729.

⁵⁶ Right to life of the environment should be given more importance than right to life of humans under any law because, humans cannot survive without environment.

⁵⁷ E S Gilbert and Others, 'Thyroid Cancer Rates from Nevada Atmospheric Nuclear Bomb Tests' (1998) [21] *Journal of the National Cancer Institute*, 1654.

⁵⁸ V Mastny, 'The 1963 Nuclear Test Ban Treaty' (2008) [10] (1) *Journal of Cold War Studies*, 3.

⁵⁹ Constitution of the Federal Republic of Nigeria 1999 as amended, s. 20.

⁶⁰ M M Abubakar, 'National Climate Change Policy for Nigeria 2021-2030: Federal Ministry of Environment' (2021) (Department of Climate Change) 1,3,6.



section (f) of section 1 provides to the effect that Nigeria as a country should move towards achieving a net-zero target of GHG emission by 2030-2070.

Section 3 established the National Council on Climate Change (NCCC). Section 4 of the Act assigned some functions to the NCCC, which include coordination and implementation of sectorial targets, guidelines for the regulation of GHG emission including other anthropogenic causes of climate change.

The Council is conferred with power under the Act, to make regulations that will put public,⁶¹ and private,⁶² organizations under obligation to make modalities that will enable them to achieve the annual carbon emission target in accordance with the Action Plan. Section 32 of the Act provides that, the Council shall make regulations requiring both public and private organizations to report annually on the measures they have taken to reduce GHG.

Looking at the provisions of the CCA, Nigeria will have to reach a net-zero carbon emission target between 2030-2070.⁶³ That is about 47 years ahead, but it appears not a possible task for Nigeria to meet the target of the net-zero carbon emission under the CCA because of debt,⁶⁴ resulting from borrowing, leading to national financial insecurity.⁶⁵

One can understand from the provisions of the CCA, that, human activities are reducing the quality of the environment, hence, the health of the environment, and until something drastic is done, humanity is under threat. But because human activities leading to degradation of the natural environment is not seen as environmental poisoning, a concept which humans have to understand as an act of murder, we will find it difficult to implement environmental laws to safeguard the life of the environment.

11.0 Environmental Protection Under the Constitutive Act of the African Union

Article 2 of the CAAU established the African Union (AU). Article 3 (h), as one of the objectives of the AU, which provides for the promotion and protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Right. Article 3 (j) is for the promotion of sustainable development at the economic, social and cultural levels, as well as integration of African economies.

When we speak of protection of human rights, there is no right more important than the right to life, because, every other right is hinged on the right to life. And the right to life of any human being depends on the environment because a healthy environment determines a sustainable development. Therefore, the natural environment deserves right to life as that given to humans, and as recognized by the CAAU.

12.0 Environmental Protection Under ECOWAS Treaty 2010 (Repealed)

Section 317(11) of the Nigerian Petroleum Industry Act (PIA) 2021, provided for the use of Afri-5 Specification (50ppm Sulphur) as an adoption of Economic Community of West African State

⁶¹ Climate Change Act, LFN 2021, s. 23.

⁶² *Ibid*, s. 24.

⁶³ Climate Change Act, LFN 2021, s. 1 (f).

⁶⁴ A Aghughu and Others, 'Government Domestic Borrowing and Private Credit in Nigeria: Testing the Lazy Bank Hypothesis' (2022) [13] (7) *Journal of Economics and Sustainable Development*, 52.

⁶⁵ E Nnadi and Others, 'An Analysis of the Impacts of Government Borrowing on the Growth of Nigeria's Construction Industry: Opportunities and Challenges' (2024) [7] (1) *African Research Journal of the Environment*, 35.



(ECOWAS) declaration on Afri-Fuel Roadmap. The aim is to protect the environment and the health of Nigerians.

Section 317 (11) provides:

“To safeguard the health of Nigerians, imported petroleum products shall conform to the Afri-5 Specification (50ppm Sulphur) as per the ECOWAS declaration of February, 2020 on the Afri-Fuels Roadmap or as may be prescribed by regulation”.

The recognition of ECOWAS by the PIA 2021, in relation to the quality of fuel to be used in Nigeria has further broaden the scope of ECOWAS regarding oil and gas production in the country. This means the ECOWAS has a role to play in environmental protection as well as having concern about the health of the people in the region.

Originally, the ECOWAS treaty came alive as it was signed in Lagos on the 28th of May 1975. But it has been revised and reprinted with additions to the original treaty in 2010 under Article 2 of the revised treaty. Article 3 states its main aim and objectives, which among other things, includes the creation and maintenance of an inter-governmental relations in respect of sovereignty, commerce, science and technology, and natural resources among Member States of the African region.

Article 4, which is the fundamental principles of the treaty, enjoins Member States to see themselves as equals, rely on one another and harmonize government policies and integrate programmes. It also involves peacefully settlement of dispute in order to foster unity among Member States. Member States have in accordance with Article 5 placed themselves under obligations to carry out what is stated under the treaty. And under Article 12, regulations made by the Council is binding on all Member States.

On the aspect of environmental protection, Article 29 and 30 enjoins Member States to protect and preserve the natural environment; and also take appropriate measures to prohibit the transportation, transiting, dumping and burying of hazardous and toxic waste in the region.

ECOWAS Treaty therefore, has contemplated economic development, energy, environmental preservation and unity of the region. Hence, the Treaty is an all-encompassing legal regime for the region. It could be interpreted that Article 29 and 30 enjoins Member States to, while embarking on petroleum energy in order to generate sustainable energy for the region, ensure that such development is done in an environmentally friendly manner. Therefore, the Treaty could be said to be that which contemplate environmental protection and not right to life of the environment.

13.0 Environment Protection Under the Climate Change Act 2008 of the United Kingdom

The Climate Change Act was enacted to take care of climate change challenges in the UK. Section 1 (1) placed on the Secretary of State duty to ensure that the UK's net carbon account for the year 2050 is at least 80 percent lower compared to that of 1990 baseline. This presupposes that the UK's carbon emission target is 2050 as against Nigeria's 2070 under the Climate Change Act 2021.

Section 13 (1) of the Act gave power to the Secretary of State to prepare proposals and policies that will enable the UK government meet the provision of section 1, which is the 2050 emission target. However,



the Secretary of State shall carry out this duty putting into consideration the UK's need for domestic action on climate change. This means the reductions in UK emission of targeted green-house gases or increase in UK removals of such gases or both.⁶⁶ Section 20 provides that the Secretary of State shall lay before parliament a statement in respect of the level of emission, the amount removed and the net emission of the gas.

This means that all the various types of gases emitted and their net emission shall be specifically explained and analysed before parliament by the Secretary of State.⁶⁷ Section 24 provides for the targeted green-house gases which include: carbon dioxide, methane, nitro oxide, hydrofluorocarbon, and any other green-house gas which has been designated as targeted green-house gas by order made by the Secretary of State. The UK Government carries out all its oil and gas production activities in accordance with environmental protection principles thus, in accordance with the Climate Change Act.

One can sense, from the nature of the UK's CCA, that it is meant to protect the environment, which is not the same as provision for right to life of the environment. The difference is that, while laws on environmental protection is a medicine for management of disease, laws on right to life of the environment is medicine for the cure of all environmental challenges.

14.0 Safe Drinking Water Act 1974 of United States of America (as Amended)

The Safe Drinking Water Act (SDWA) was enacted to protect the U.S public health by regulating the country's public water supply. By virtue of SDWA, the Environmental Protection Agency (EPA) was authorized to set the country's drinking water health standard with a view to protecting the public from naturally occurring and manmade contaminants found in underground drinking water sources.⁶⁸

The U.S SDWA empowers the EPA to establish an underground injection control (UIC) programme with a view to regulating underground injection of well, calculated at controlling toxic fluids underground.⁶⁹ As a result, States are placed under obligation to submit an UIC proposal to the EPA that meets the health guidelines intended to regulate drilling activities within its borders.⁷⁰ There was however, exclusion of fracking from the SDWA in 2005 by Congress.⁷¹

Bush was elected President of the United States, he established the National Energy Policy Development Group with the intention of assisting States and Local Authorities promote the distribution of energy in the United States.⁷² It was revealed that Vice President Dick Cheney who was formerly

⁶⁶ UK Climate Change Act, 2008 s. 15.

⁶⁷ *Ibid.*

⁶⁸ L Blake, 'Comments: Hydraulic Fracturing, Evaluating Fracking Regulations' (2015) [4] (2) (4) *University of Baltimore Journal of Land and Development*, 177.

⁶⁹ EPA, 'Basic Information about Injection Wells' <<https://www.water.epa.gov>> accessed 27 June 2022.

⁷⁰ J Obold, 'Leading by Example: The Fracturing Responsibility and Awareness of Chemicals Act of 2011 as Catalyst for International Drilling Reform' (2012) [23] (Colorado, *Journal of International Environmental Law and Policy*, 470.

⁷¹ R D Morgan, 'What the Frack?: An Empirical Analysis of the Effect of Regulation on Hydraulic Fracturing' (2012) [16] *QUINNIPIAC Health Law Journal*, 77.

⁷² D Eric, 'Executive Exclusion and the Cloistering of the Cheney Energy Task Force' (2008) [16] *New York University Environmental Law Journal*, 320.



working for the biggest oil company Halliburton headed the task force that resulted to the removal of sensitive drilling activities from the SDWA.

Facts revealed that the energy industry dominated the task force,⁷³ hence influenced the language and passage of the Energy Policy Act 2005 that excluded fracking activities from the SDWA.⁷⁴ Therefore, all these laws are environmental protectionism, not right to life laws, which is more effective concept for environmental protection laws.

15.0 Environmental Protection Under the UNCCS, 1958

The United Nations Convention on the Continental Shelf (UNCCS), done at Geneva on the 29th of April 1958 and came into force on June 1964, is an international treaty created to codify the rules of international law relating to the continental shelf.⁷⁵ It established the right of a sovereign State over the continental shelf, which is now superseded by the United Nations Convention on Law of the Sea (UNCLOS).⁷⁶ The UNCCS dealt specifically with seven topics: the governing regime for the super-jacent waters and air space; laying or maintenance of submarine cables or pipelines; a governing regime for navigation, fishing, scientific research and coastal state's competence in these areas; delimitation and tunnelling.⁷⁷

Article 1 of the UNCCS gave the meaning of continental shelf as:

- (a) The seabed and the subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the super-jacent waters admits of the exploitation of the natural resources of the said areas;
- (b) The seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

Article 2 (1) entitled the coastal State, right to explore and exploit its natural resources to the exclusion of every other State. A coastal State is entitled to construct installations and facilities to explore and exploit the natural resources adjacent to its coast line, but such exploration and exploitation must not result to the interference with navigation, fishing, the oceanography, among other things.⁷⁸ Article 5 (7) allows the coastal State to take all measures necessary to protect the living resources of the sea from harmful agents. An analytic expositional explanation of article 2 (1) and article 5 (7) of the UNCCS appears to suggest that, even though fracking is not expressly contemplated under the convention, activities likely to affect the living marine lives is prohibited.

Therefore, it could be rightly argued and interpreted that, the UNCCS is a regime that supports the exploration and exploitation of natural resources, which could be interpreted to include employing fracking technology to extract oil or gas by a coastal State and, which at the same time, regulates to prohibit such activities from degrading the constituent of the ocean.

⁷³ *Ibid.* 331, 332.

⁷⁴ Energy Policy Act 2005, s. 322.

⁷⁵ M N Shaw, *International Law* (Cambridge University Press, 2003) 328.

⁷⁶ R Dupuy and V Daniel, *Hand Book on the New Law of the Sea* (Martinus Nijhoff Publishers, 1999) 328.

⁷⁷ *Ibid.*

⁷⁸ UNCCS 1958, art. 5.

16.0 Environment Protection Under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972

The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (CPMPDWOM) 1972, also referred to as the London Convention (LC), provides an international body of rules, preventing the dumping of radioactive materials that are capable of causing pollution of the marine environment vital to support humanity.⁷⁹

Article I enjoin parties to collectively and individually have effective control of sources of pollution of the marine environment, especially prevention of the sea by dumping of wastes capable of creating hazard to human health, the living organisms, and marine life. Article II enjoins parties to individually and collectively, use their scientific, technical and economic capabilities to prevent marine pollution caused by dumping, and to harmonize such into their national policies.

Article III explain the meaning of dumping as follows:

- (a) “Dumping means:
 - (i) deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms, or other man-made structures at sea;
 - (ii) any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea.
- (b) “Dumping” does not include:
 - (i) The disposal at sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such wastes or other matter on such vessels, aircraft, platforms or structures;
 - (ii) Placement of matter for purposes other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.
- (c) The disposal of wastes or other matter directly arising from, or related to the exploration, exploitation and associated offshore processing of sea-bed mineral resources will not be covered by the provisions of this Convention.

Article IV referred to Annex I as listed items specifically prohibited for dumping at sea, which include but not limited to item 2, which is mercury and mercury compounds; item 5, which is crude oil and its wastes, refined petroleum products, petroleum, distillate residues, and any mixtures containing any of these, taken on board for purposes of dumping; and item 6, which is radioactive wastes or other radioactive matter. This is how the London Convention was couched to protect the environment especially, marine environment. However, for the natural environment, what article III excluded from being dumping is seen as deliberate violation of its right to fresh air, hence violation of its right to enjoyable life.

⁷⁹ The Preamble to the London Convention, para. 1

17.0 Environmental Protection Under the United Nations Convention on Law of the Sea 1982

Nigeria has ratified and domesticated the United Nations Convention on Law of the Sea 1982 (UNCLOS) thus bound by UNCLOS.⁸⁰ Due to the impossibility of compliance to the total removal of petroleum installations as provided for under the United Nations Convention on the Continental Shelf, considering the improvement associated with the petroleum industry from 1958 to 1987, the UK government argued that Article 5 (5) should be interpreted purposively to allow for partial decommissioning that will not obstruct navigation, marine lives and fishing activities.⁸¹

In view of the foregoing, it could be said that the 1982 UNCLOS was initiated to ameliorate and mitigate the harsh provision under Article 5 (5) of UNCCS 1958 in response to the UK's argument. The UNCLOS is regarded as an equation balancing international law with regard to decommissioning of offshore petroleum installations or facilities for purposes of environmental protection.

But not removal of installations alone is the target of UNCLOS. Article 42 (b) of the UNCLOS provides for the prevention, reduction and control of pollution of discharge of oil, oily wastes, and other obnoxious substances into the strait. Therefore, UNCLOS could be referred to as an international instrument which, in addition to removal of installations, provides for the control and discharge, hence for the protection of marine environment.⁸²

18.0 Environmental Protection Under the United Nations Framework Convention on Climate Change, 1992

Central to the United Nations Framework Convention on Climate Change (UNFCCC) 1992 Instrument is the implementation of its objective, which is stabilization of greenhouse gas concentration in the atmosphere.⁸³ Paragraph 20 of the preamble to the UNFCCC recognizes that some members countries' economies are dependent upon fossil fuel, which Nigeria is mostly inclusive.

Paragraph 9 of the preamble respects the international law principle of State Sovereignty, while Paragraph 8 of the preamble respects States' sovereignty to exploit their natural resources. It appears that the UNFCCC encourages countries' economic prosperity, and respects their means of providing economic sustainability to their people. Article 4 provides for the commitments of member countries concerning addressing and mitigating sources of emission nationally and where possible, regionally and report same to the Conference.

Thus, Article 3 (4) of the UNFCCC confer right on member countries including Nigeria to implement policies that promotes sustainable development particularly economic development in their respective countries. Given that countries' economic development is essential for adopting measures that will combat climate change, Article 3 (5) encourages a cooperative economic development of all the member countries in order to enable them cooperatively address the climate change challenges.

⁸⁰ I O Babatunde and E M Akpambang, 'Impediments to Enforcement of Environmental Treaties Against Oil Pollution' (2017) [8] (2) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 1.

⁸¹ J Paterson, *Oil and Gas Law: Current Practice and Emerging Trend* (2nd edn, Dundee: Dundee University Press 2011) 289.

⁸² United Nations Convention on Law of the Sea, art. 42 (b).

⁸³ United Nations Framework Convention on Climate Change, art. 2.

Recalling that Article 3 (4) appreciates the fact that member countries' economic prosperity is essential for the adoption of measures to combating climate change, it is suggested that the PIA should robustly provide for fracking to enhance national economic prosperity, and minimize the environmental and health risks in order to use the proceeds of increased crude-oil and natural gas output from the adoption of fracking technology for renewable energy, thereby effectively combating climate change.

19.0 Environmental Protection Under the International Maritime Organization 1982

The Maritime Committee is the International Maritime Organization (IMO) body, which is saddled with the responsibility to provide safety Guidelines.⁸⁴ This body issues Guidelines which was adopted by IMO's Assembly in 1989.⁸⁵ On January 2020, IMO formulate a new rule limiting sulphur content on fuels to be used on board ships with a view to significantly improve the air quality and preserve the environment in order for humans to have good and healthy life.⁸⁶

Under the new rule, the quality of fuels to be used on board ships outside designated emission control areas is 0.05 percent m/m (mass by mass) as against the previous limit of 3.5 percent. The limit is stricter within specific emission control designated areas which is 0.01 percent. This new limit is made compulsory following the amendment to Annex VI of the International Convention for the Prevention of Pollution from Ship (MARPOL).⁸⁷ Regulation 18.3 provides that all fuels used for combustion purposes on board ships must meet the required fuel oil standard, which must not contain or include any added substance or chemical waste that jeopardizes the safety of ships or adversely affect the performance of machinery.

The IMO is an international organization, and whatever changes affecting IMO affects the international community to which Nigeria is a party. One of Nigeria's prides is the Nigerian Port Authority (NPA), with various Ports in different place across the country like Apapa and Tin Can Ports in Lagos; Onne and Port Harcourt Ports in Port Harcourt, Rivers State; Warri Port in Delta State; and Calabar Port in Cross River State, which have the capability to generate N1.02 trillion or more to the nations' treasury within the space of three years.⁸⁸

Nigerian seaports handle cargo volume of 80.2 metric tonnes in 2019; 7.4 metric tonnes in 2020 with ship traffic of 4, 251 in 2019 and 3,972 in 2020. Again, crude oil carrying vessels for export into the international market for sale and motor spirit (fuel) importation into Nigeria for consumption traffics through the Nigerian seaports, which between February and March 2018 alone, about 20 vessels were ladened with petroleum spirit for berth in Nigeria.⁸⁹ This means that the new IMO rule limiting sulphur content on fuels to be used on board ships may have impact on Nigeria as well, and which will have

⁸⁴ IMO, IMO guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone, Res. A. 672 (16).

⁸⁵ *Ibid.*

⁸⁶ IMO, 'IMO 2020 Sulphur Limit Implementation: Carriage Ban Enters into Force' <<https://www.imo.org>> Accessed 29 July 2025.

⁸⁷ *Ibid.*

⁸⁸ E Abiodun, 'Nigeria: How NPA Generated N1.02 in Trillion Revenue' *THIS DAY* (Lagos, 23 October 23 2020) 18

⁸⁹ S Salau, '20 Vessels Laden with Petroleum Products for Lagos Ports' *THE GUARDIAN* (Lagos, 22 February 2018)



impact on the oil and gas industry. As a result, section 7 (1) of the PIA enjoins the Commission to produce quantity and quality oil.

It is important to acknowledge that traffic of sea vessels is generally high in Nigeria's seaports.⁹⁰ It is also pivotal to note that export of crude oil and import of motor spirit into Nigeria is by sea vessels.⁹¹ Therefore, in the wake of IMO new rule,⁹² Nigeria is also under obligation to align itself to producing quality sulphur free oil in accordance with the provisions of the PIA.⁹³ This makes IMO Sulphur free oil at sea rules, environmental protection rules.

20.0 Human Activities Violating the Right to Life of the Environment

a. Generator Fumes

There are certain seemingly little acts human beings carry out without knowing the weight of the pollution caused to the environment until it directly affects human lives.⁹⁴ In the year 2008, in Akali street, Etegwe Community, Yenagoa Local Government Area of Bayelsa State, a family of four lost three lives to generator fumes as one of them latter regained consciousness after taken to hospital.⁹⁵ In the same Etegwe Community, a husband and wife also lost their lives, caused by generator carbon monoxide poisoning.

Many lives have been lost to generator fumes across the globe.⁹⁶ But it is important to note that, whatever kills humans at close contact like in the cases of the deaths caused by inhaling generator fumes during sleep, also slowly takes the life of humans and the environment. The only difference is that, it is not noticed because, it is in slow-motion. But this slow-motion environmental poisoning process accumulation over time, causes human and environmental health hazards.⁹⁷

b. Agricultural Use of Herbicides

Weeds are regarded as agents slowing down the growth of agricultural produce, hence, farmers this-days use herbicides in the management of the weeds on their farms.⁹⁸ In other words, what is applicable this-days is the use of herbicide chemicals to stop the weeds from growing.

⁹⁰ Agency Report, 'Nigeria Controls 70 percent of Cargo Traffic of West/Central Africa' *PREMIUM TIMES* (Lagos, 18 August 2018) <<https://premiumtimesng.com>> accessed 11 August 2025.

⁹¹ S O Ebiere, 'Nigerian Shipping Industry and Trade' (2018) *Danubius Working Papers*, 12.

⁹² IMO New Rule, r. 18 (3).

⁹³ Petroleum Industry Act 2021, s. 7 (i).

⁹⁴ Every cubic ton of carbon emitted into the air slowly takes the life of the environment, thereby violating the right to life of the environment.

⁹⁵ Because the fumes directly affected human lives at close contact, it definitely affects the environment if emitted into the air, which in turn slowly affect human health.

⁹⁶ K Jellinghaus and Others, 'Suicidal Carbon Monoxide Poisoning, Using a Gas-powered Generator' (2013) *Forensic Science International*, 236.

⁹⁷ N Owofeso, 'Generator Diesel Exhaust: A Major Hazard to Health and Environment in Nigeria' (2011) [10] *American Journal of Respiratory and Critical Care Medicine*, 1437.

⁹⁸ M Casimero and Others, 'Herbicide Use History and Weed Management in South-East Asia' (2022) *Journal of the Brazilian Weed Science Society*, 1.



This habit has serious environmental problem because, it affects the life of other organisms within the life cycle of the entire ecosystem.⁹⁹ These chemicals, when applied, comes in contact with the crops. Therefore, as we harvest them for sale and consumption, we come in contact with the herbicides or chemicals because the chemicals have already polluted the ecosystem.¹⁰⁰ This may be part of the reason for the many health challenges without names we have this-days.

21.0 Conclusion

The issue of right to life of the environment and right to life of human beings is that of concept. The concept of right to life of a human being is well established within the human mind. Every human knows that taking human life is a crime because the laws have made it so. As a result, those who want to kill does so secretly or under circumstances allowed by law.

On the contrary however, the knowledge that, the environment, like a human being is also alive, deserving right to life as that of humans is yet to become part of the concept of this current human civilization. That is the reason there are many municipal and international legal frameworks on right to life of human beings and environmental protection, but none on right to life of the environment.

This is not a deliberate act on the part of humans, it is only a matter of misconception about what environment really meant. The concept that, our natural environment breathes like every human being and the concept that environment is meant to be exploited are not the same. The one who has evolved to recognize that environment, like him or her, breathes, will have a different conceptualization on how to treat the environment with the respect it deserves.

That is why, language and concept about a particular phenomenon in life is very important for the development or destruction of human beings. Concept can wipe out an entire race. It can also build generations. Therefore, it is time for the human race to conceptualize that our natural environment, like us is breathing, hence, deserves right to life. Therefore, the right to life of a human being is not complete without right to life of the environment.

22.0 Recommendations

The paper recommends as follows:

1. The Human Rights Council of the United Nations responsible for promoting and protecting human rights should establish right to life of the environment worthy of promoting and protecting as the Environment is not an inanimate surrounding but a living phenomenon just like humans.
2. Constitutional review by the Nigerian Legislature for the inclusion of right to life of the environment as one of the Fundamental Rights guaranteed and protected under Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 as amended.

⁹⁹ M Bacmaga and Others, 'Environmental Implication of Herbicide Use' (2024) *Molecules*, 1.

¹⁰⁰ T Ustuner and Others, 'Effect of Herbicides on Organisms in the Ecosystem and Available Alternative Control Methods' (2020) [10] (8) *International Journal of Scientific Research Publications*, 633.



3. Promulgation and enactment of stiff penalties in many municipal and international laws or instruments on environmental protection for all forms of violations of the right to life of the environment.