

**GREENING HUMAN RIGHTS: PROMOTING THE RIGHT TO A HEALTHY
ENVIRONMENT THROUGH THE INSTRUMENTALITY OF HUMAN RIGHTS
LAWS AND THE CONSTITUTION IN NIGERIA**

Ekorutomwen Gabriel Ekhaton & Grace Aduragbemi Ikudaisi

VOLUME 7, NO. 1 (2024)

GREENING HUMAN RIGHTS: PROMOTING THE RIGHT TO A HEALTHY ENVIRONMENT
THROUGH THE INSTRUMENTALITY OF HUMAN RIGHTS LAWS AND THE
CONSTITUTION IN NIGERIA

Ekhorutomwen Gabriel Ekhaton* and Grace Aduragbemi Ikudaisi*

Abstract

Nigeria is one of the countries where the right to a healthy environment is provided for in the Constitution but is not explicitly justiciable. Amid concerns about environmental pollution and climate change, the Constitution and human rights legislation have become principal tools for advancing environmental justice by "greening" existing provisions to implicitly address environmental issues. While this approach is a positive development, it is not the most effective means of protecting the right to a healthy environment, as the right is not a strictly defined area of law and overlaps with other laws that can change at any time. This article recommends making the right to a healthy environment justiciable and enforceable by transferring it from Chapter II, which is non-justiciable, to Chapter IV of the Constitution, which is justiciable, to ensure the practical realisation of this right.

* Ekhorutomwen Gabriel Ekhaton, LLB (Uniben), BL, AICMC, Corporate/Commercial Attorney at Solola & Akpana, ekhatorgabriel@gmail.com.

* Grace Aduragbemi Ikudaisi, LLB(Hons), BL, Corporate/Commercial Attorney at Solola & Akpana, ikudaisiaduragbemi@gmail.com.

1.0 INTRODUCTION

Human rights and a healthy environment are by their very nature indivisible, interdependent, and interrelated.¹ Human rights cannot be protected without the protection of the environment where people reside and environmental rights can only be realised when human rights are respected.² For instance, “the realisation of the right to health depends on the realisation of the right to a healthy environment, whereas a healthy environment is a precondition for the fulfilment of other rights,”³ such as the right to life and the right to an adequate standard of living.

Internationally, the interconnections between a healthy environment and human rights are now well established. It is common knowledge that environmental issues such as pollution, deforestation, or the misuse of natural resources can negatively affect individuals’ and communities’ enjoyment of fundamental human rights, such as the right to life and the right to an adequate standard of living. These are rights which are guaranteed under international human rights laws and about which ‘governments bear certain responsibilities.’⁴ Furthermore, environmental issues can also impact governments’ capacity to protect and fulfil the rights of their citizens. In this way, human rights and environmental protection can be constructed as being ‘mutually supportive.’⁵ The right to a healthy environment (whether substantive or procedural)

¹ L. Wortsman, “Greening” The Charter: Section 7 and the Right to a Healthy Environment” (2019) 28 *Dalhousie Journal of Legal Studies* 245.

² E. M. Akpambang, “Promoting the Right to A Healthy Environment through Constitutionalism in Nigeria” (2016) 4(3) *International Journal of Environment and Pollution Research*, 40.

³ World Health Organisation, *Human Rights-Based Approach to Health and Environment* (World Health Organization 2008) 1.

⁴ B. Lewis, “Human Rights and Environmental Wrongs: Achieving Environmental Justice through Human Rights Law” (2012) 1(1) *IJCJ*, 65.

⁵ *Ibid*, 65.

guarantees some level of environmental standards to persons or communities “whilst also ensuring access to information, participation in the decision-making process and access to justice amongst others.”⁶ Generally, there is no international or multilateral treaty that particularly guarantees “the right to a healthy environment or the protection of the environment.”⁷ However, there are a plethora of international, regional, soft law mechanisms, and national constitutions which make allusions to the right to a healthy environment.⁸

As early as the 1972 Stockholm Conference on the Human Environment, efforts were made to explore and understand the interrelatedness between human rights and environmental protection.⁹ The 1972 *Stockholm Declaration* sparked dramatic changes not only in environmental law but also in human rights law and constitutional law.¹⁰ The bold assertion, in Article 1 recognised environmental protection as a pre-condition for the enjoyment of many human rights thus:

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.¹¹

⁶ O. K. Anaebo & O. E. Eghosa, “Realising Substantive Rights to Healthy Environment in Nigeria: A case for Constitutionalisation” (2015) 17(2) *Environmental Law Review*, 82.

⁷ S. Turner, *Substantive Environmental Right - An Examination of the Legal Obligations of Decision- Makers towards the Environment* (Kluwer: Leiden, 2009).

⁸ B. Lewis, “Environmental Rights or a Right to the Environment: Exploring the Nexus between Human Rights and Environmental Protection” (2012) 8 *Macquarie J. Int'l & Comp. Env'tl. Law*, 36.

⁹ D. Shelton, “Human Rights and The Environment: What Specific Environmental Rights Have Been Recognized?” (2006) 35 *Denver Journal of International Law & Policy*, 129.

¹⁰ *Ibid.*

¹¹ United Nations Conference on the Human Environment, June 5-16, 1972, Stockholm, Switz., Declaration of the United Nations Conference on the Human Environment, Principle 1, 11 I.L.M. 1416, 1417-18.

The *Rio Declaration* in recognising the need for a healthy environment, states that human beings are “entitled to a healthy and productive life in harmony with nature.”¹² These declarations exemplify the link between human rights and environmental protection. Similarly, the 1994 Draft Declaration of Human Rights and the Environment boldly asserted that “human rights, an ecologically sound environment, sustainable development” are interdependent and inseparable.¹³ The Draft Declaration further conferred on all persons the right to freedom from pollution, environmental degradation and activities that negatively impact the environment, and portend danger to life, health, livelihood, and well-being within or outside national frontiers.¹⁴

From the Stockholm Declaration to the present, most advances in developing environmental rights have occurred first and almost exclusively at the national level and subsequently at the regional level. At the national level, some countries’ constitutions have categorically provided for the right to a healthy environment,¹⁵ while others, such as India and Canada, have continually greened existing human rights laws to protect the right to a healthy environment.¹⁶

At the regional level, there has been a lot of recognition of the importance of the right to a healthy environment and codification of the same. For instance, Article 11 of the

¹² Rio Declaration on Environment and Development, Principle 1, U.N. Doc. A/CONF.151/26 (Aug. 12, 1992)

¹³ Draft Declaration of Human Rights and the Environment, E/CN.4/Sub.2/1994/9, Annex 1, Part I, Paras. 1, 2 and 5.

¹⁴ *Ibid*, Part II, Para. 5.

¹⁵ Constitution of Costa Rica 1949 as amended, Article 50; See also Constitution of the Republic of Korea 1987, Article 35(1); Constitution of the Republic of South Africa 1996, Section 24, Chapter 2.

¹⁶ A. B. Abdulkadir, “The Right to A Healthful Environment in Nigeria: A Review of Alternative Pathways to Environmental Justice in Nigeria” (2014) 3 (1) *Afe Babalola University: Journal of Sustainable Development Law and Policy*, 118.

Additional Protocol to the Inter-American Convention on Human Rights 1994¹⁷ states that:

Everyone shall have the right to live in a healthy environment and to have access to basic public services; the state parties shall promote the protection, preservation, and improvement of the environment.¹⁸

This article vested the obligation to promote the right to a healthy environment on the state parties after recognising the right as a human right. In the case of the African continent, Article 24 of the *African Charter on Human and People's Rights* states that “All peoples shall have the right to a general satisfactory environment favourable to their development.” The import of these provisions is that state parties are required to take reasonable preventive measures in preventing pollution and ecological degradation while at the same time promoting conservation, as well as securing an “ecologically sustainable development and use of natural resources.”¹⁹

In 2022, 50 years after the pioneering Stockholm Declaration, the right to a healthy environment finally gained global recognition²⁰ as this right was the subject of a historic UN resolution confirming that everyone, everywhere, has the right to live in a clean, healthy and sustainable environment, with 161 votes in favour of the resolution.²¹ The resolution notes that the right to a clean, healthy, and sustainable environment is “related to other rights and existing international law,”²² and affirms that the “promotion of the human right to a clean, healthy and sustainable environment requires

¹⁷ Additional Protocol to the Inter-American Convention on Human Rights 1994.

¹⁸ *Ibid*, Article 11.

¹⁹ J. B. Marshall & F. Bashir, “Human Rights Approach to Environmental Protection in Nigeria: An Appraisal” (2020) 8(4) *International Journal of Business & Law Research* 135, 147.

²⁰ EDO, *A Healthy Environment is a Human Right: Report on the Status of the Human Right to a Healthy Environment in Australia* (Environmental Defenders Office Ltd, 2022) 8.

²¹ The United Nations Resolution A/76/L.75.

²² *Ibid*.

the full implementation of the multilateral environmental agreements under the principles of international environmental law.”²³ It is believed that the resolution will help “reduce environmental injustices, close protection gaps and empower people, especially those that are in vulnerable situations, including environmental human rights defenders, children, youth, women and indigenous peoples”²⁴ in advocating for the protection of the environment. It will also help States accelerate the implementation of their environmental and human rights obligations and commitments, as the resolution calls upon international organisations, states, business enterprises, and other pertinent stakeholders to adopt policies, that will enhance “international cooperation, strengthen capacity-building, and continue to share good practices to scale up efforts to ensure a clean, healthy and sustainable environment for all.”²⁵ This resolution is a step in the right direction.

It is important to note that by 2022, nearly 80 per cent of the UN member states have recognised the “legally binding right to a healthy environment somewhere in their laws, if not constitutionally, then through court decisions, in statute,²⁶ or via the ratification and domestication of international environmental agreements.”²⁷ A good number of countries have signed non-binding, soft-law declarations that recognise the right to a

²³ Ibid.

²⁴ Statement made by UN Secretary-General, António Guterres, quoted in “UN General Assembly declares access to clean and Healthy Environment a Universal Human Right” *The Africa Renewal* 28 July 2022, available at <https://news.un.org/en/story/2022/07/1123482> (accessed 31 July 2024).

²⁵ The United Nations Resolution A/76/L.75.

²⁶ L. Wortsman, ““Greening” The Charter: Section 7 And the Right to A Healthy Environment” (2019) 28 *Dalhousie Journal of Legal Studies*, 245.

²⁷ Ibid.

healthy environment.²⁸ Although Nigeria has enacted several environmental laws, it remains one of the few states holding out against the meaningful implementation of a right to a healthy environment, as the Nigerian government has failed to constitutionally make the right to a healthy environment justiciable despite the clamouring for same and amidst various constitutional amendments that have been done.

Despite the international consensus on the close link between human rights and a healthy environment, there is still no global agreement about the precise legal place of the environment in the international human rights discourse²⁹ as the declarations and resolutions mentioned above do not create binding obligations, but merely important statements that may be used to inform the Nigerian government's approach when considering introducing the right to a healthy environment as part of the constitutionally enforceable human rights in the Nigerian's constitution.

This article is divided into seven parts. Part One is the introductory part. This part of the article gives a background overview of the current problem that the article studies. Part two discusses the concepts of human rights and the right to a healthy environment, as well as provides the conceptual background and context for the discussions in the article. Part three examines the interrelatedness between human rights and the right to a healthy environment. The relation between these two concepts is no doubt recognised nationally and internationally. Part four of the article dwells on the right to

²⁸ D. R. Boyd, "Catalyst for Change: Evaluating Forty Years of Experience in Implementing the Right to a Healthy Environment" in J. H. Knox & R. Pejan (eds), *The Human Right to a Healthy Environment* (Cambridge University Press, 2018) 17, at 18.

²⁹ K. Tang and O. Spijkers, "The Human Right to a Clean, Healthy and Sustainable Environment" (2022) 6 *Chinese Journal of Environmental Law*, 87.

a healthy environment in Nigeria. The article demonstrates that although the constitution of Nigeria has not explicitly recognised a justiciable right to a healthy environment, the courts have implicitly accepted that such a right exists within the rights contained in chapter four of the constitution and the provisions of the African Charter on Human and People's Rights (a regional treaty) which have been domesticated in Nigeria. Part Five of the article argues for the making of the right to a healthy environment an explicit justiciable and enforceable human right within the provision of Chapter IV of the Constitution of Nigeria. This can be achieved in two ways: by amending the constitution to provide for a justiciable right to a healthy environment or by expanding the scope of the extant justiciable rights embedded in the constitution to include the right to a healthy environment. This article urges that incorporating the right as a justiciable right in the constitution is the best option, though it might be difficult due to the stringent constitutional amendment procedure.³⁰ Part six of the article discusses the benefits accruing from the recognition of the right to a healthy environment. Part seven of the article, which is the concluding part, recommends that the Nigerian constitution should be amended to incorporate the justiciable substantive right to a healthy environment for better protection of the rights in Nigeria.

³⁰ See Section 9 of the Constitution of the federal Republic of Nigeria 1999 (as amended), for the amendment procedure.

2.0 CONCEPTUALISATION

2.1 Human Rights

There is no universally acceptable definition of the concept of human rights. Various definitions of the term have been proffered by several scholars and jurists.³¹ According to Donnelly:

[H]uman rights are a complex and contested social practice that organises relations between individuals, society, and the state around a distinctive set of substantive values implemented through equal and inalienable universal rights.³²

He further asserted that human rights exist not only for a mere human existence but also "for an existence that gives a deeper human moral reality," meaning that human rights are meant to support a life of dignity and ethical fulfilment, not just basic survival. ³³ In the same vein, Cranston posited that:

Human rights by definition is a universal moral right, something which all men everywhere, at all times ought to have, something of which no one may be deprived without grave affront to justice, something which is owing to every human being simply because he is human.³⁴

Simply put, human rights are the basic rights and freedoms that belong to every person in the world, from birth until death. They are inalienable fundamental rights to which a person is inherently entitled simply because he or she is a human being; they are not granted by any state and represent basic values common to all, regardless of nationality, race, sex, national or ethnic origin, colour, religion, political or other

³¹ E. M. Akpambang, "Promoting the Right to A Healthy Environment through Constitutionalism in Nigeria" (2016) 4(3) *International Journal of Environment and Pollution Research*, 40.

³² J. Donnelly, "Human Rights" Working Paper No. 23 (2005) available at <http://www.du.edu/gsis/hrhw/working/2005/23-donnelly-2005.pdf> (accessed 31 July 2024).

³³ J. Donnelly, *The Concept of Human Rights* (St. Martins's Press, 1985) 39.

³⁴ M. Cranston, *Human Rights Today* (Ampersand Books 1962) 40.

opinion, language, or any other status,³⁵ and must be respected by countries worldwide.³⁶

The first international instrument that recognised human rights was the Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948. The legal document set out the fundamental human rights to be universally protected. The principles of universality and inalienability of human rights are the cornerstone of the UDHR as clearly stated in Article 2:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The principles, as first emphasised in the UDHR, are repeated in many international human rights conventions, declarations, and resolutions that were enacted after the UDHR.

2.1 Right to a Healthy Environment

The concept of human rights as known today was popularised after the Second World War, however, “the right to a healthy environment, as one of those human rights, was never a priority.”³⁷ Today, this emerging concept of the right to a healthy environment and what it entails, has continued to be a subject of hot debate by human rights activists and environmentalists, as the concept continues to gain relevance

³⁵ UN Human Rights Office “What are Human Rights?” available at <https://www.ohchr.org/en/what-are-human-rights> (accessed 31 July 2024).

³⁶ Icelandic Human Rights Centre, “The Concept of Human Rights” available at <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/part-i-the-concept-of-human-rights> (accessed 31 July 2024).

³⁷ A. Singh, “Right to Clean Environment: A Basic Human Right” available at www.legalservicesindia.com (accessed 31 July 2024).

internationally.³⁸ At present, none of the countries that have made express provisions in their constitutions for the right to a healthy environment³⁹ have attempted to offer an operational definition of the right to a healthy environment. Neither has the international instruments recognising the right to a healthy environment defined the concept. The right to a healthy environment has been defined as a right to protect the elements of the natural environment that enable a dignified life. It encourages the preservation of basic human rights such as the right to life, clean water, and food.⁴⁰ The right to a healthy environment is a human right advocated by human rights organisations and environmental organisations to protect the “ecological systems that protect human health.”⁴¹

3.0 RELATIONSHIP BETWEEN HUMAN RIGHTS AND A HEALTHY ENVIRONMENT

The interrelation between human rights and environmental protection is undisputable in environmental law jurisprudence. The aim of human rights law is to ensure that the environment does not degenerate to the extent where the substantive right to life, right to dignity of the human person, the right to a family and private life, right to an adequate standard of living, right to education and other human rights are adversely

³⁸ D. Shelton, “Human Rights and The Environment: What Specific Environmental Rights Have Been Recognized?” (2006) 35 *Denver Journal of International Law & Policy*, 129.

³⁹ Article 41 of the Constitution of Argentina 1853; See Article 79 of the Constitution of Colombia 1991; See Article 46 of the Constitution of the Republic of the Congo 1992; Constitution of Costa Rica 1949; See Article 69 of the Constitution of the Republic of Croatia 2001; Constitution of the Republic of Chechen 2003. See also the Constitution of the following countries: Constitution of Angola, Argentina, Belarus, Belgium, Burkina Faso, Cameroon, Cape Verde, Chad, Chechnya, Chile, Colombia, Congo, Ecuador, Finland, Georgia, Ghana, Hungary, India, Mexico, Niger, Namibia, Portugal, Russia, Romania, Sao Tome, Saudi Arabia, Slovakia, Ukraine, and Zambia.

⁴⁰ E. M. Akpambang, “Promoting the Right to A Healthy Environment through Constitutionalism in Nigeria” (2016) 4(3) *International Journal of Environment and Pollution Research*, 40.

⁴¹ J. H. Knox, “Constructing the Human Right to a Healthy Environment” (2020) 16 (1) *Annual Review of Law and Social Science*, 79.

impaired.⁴² Just as there is concern for environmental protection in the realm of international human rights law, there is likewise concern for human rights protection in the realm of international environmental law. In a way, “concern for human rights protection underlies environmental law instruments, to the extent that these instruments aim to protect the environment, which will ultimately benefit human beings and mankind.”⁴³ It has become accepted that the protection of human rights involves the protection of the environment.⁴⁴

There is a growing body of national, regional, and international laws that recognise the interconnection between human rights and a safe environment. This is coupled with a trend across different countries towards the adoption of laws with an express provision for the human right to a healthy, safe, and sustainable environment. An examination of international and regional court decisions, UN treaty bodies and UN special rapporteurs on human rights, and national laws will lead to one conclusion, which is the fact that there is “an explicit link between the degradation of the environment and its impact on people’s enjoyment of a wide range of human rights.”⁴⁵ The International Court of Justice has recognised that the protection of the environment is a vital part of contemporary human rights doctrine because it is an essential condition for numerous

⁴² D. Shelton, “Human Rights and The Environment: What Specific Environmental Rights Have Been Recognized?” (2006) 35 *Denver Journal of International Law & Policy*, 129.

⁴³ United Nations University “The Recognition of the Right to a Healthy Environment: The Concern for Environmental Protection in International Human Rights Instruments” available at unu.edu (accessed 31 July 2024).

⁴⁴ P. Cullet, “Definition of an Environmental Right in a Human Rights Context” (1995) 13 *Netherlands Quarterly of Human Rights* 25, at p.26.

⁴⁵ Environmental Defenders Office, *A Healthy Environment is a Human Right: Report on the Status of the Human Right to a Healthy Environment in Australia* (Environmental Defenders Office Ltd, 2022) 16.

human rights such as the right to life and the right to health. Judge Weeremantry of the International Court of Justice expressed it thus:

The protection of the environment is... a vital part of contemporary human rights doctrine, for it is a *sine qua non* for numerous human rights such as the right to health and the right to life itself. It is scarcely necessary to elaborate on this, as damage to the environment can impair and undermine all the human rights spoken of in the Universal Declaration and other human rights instruments.⁴⁶

Sharing in the sentiment of the International Court of Justice, the three regional courts on human rights; the European Court of Human Rights,⁴⁷ the Inter-American Court of Human Rights⁴⁸ and the African Court on Human and People's Rights,⁴⁹ have variously held that there is a link between the human rights and environmental protection. National courts around the world in precedent-setting cases have also affirmed this belief. In *Jonah Gbemre v Shell Petroleum Development Company Nigeria Ltd and Others*,⁵⁰ the Federal High Court of Nigeria per Justice Nwokorie in ordering that gas flaring must be stopped as it violates the guaranteed constitutional rights to life and human dignity, held that "these constitutionally guaranteed rights inevitably include the right to a clean, poison-free, pollution-free healthy environment."⁵¹ Similarly, in the Indian case of *Subash Kumar v. State of Bihar*,⁵² the Supreme Court of India held that:

The right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has the right to have recourse to Article 32 of the

⁴⁶ Gabcikovo-Nagymaros Project (Hung. v. Slov.), 1997 I.C.J. 92 (Sept. 27) (separate opinion of Judge Weeremantry).

⁴⁷ Lopez Ostra v. Spain, Application no. 16798/90.

⁴⁸ Awas Tingni Community v. Nicaragua, Inter-Am. Ct. H.R., (Ser. C) No. 79 (2001).

⁴⁹ The Social and Economic Rights Action Centre and Another v. Nigeria.

⁵⁰ *Gbemre v. Shell Petroleum Development Company Nigeria Ltd and Others* (2005) AHRLR 151.

⁵¹ *Ibid.*

⁵² (1991) A. I. R. 420.

Constitution for removing the pollution of water or air which may be detrimental to the quality of life.

Furthermore, in the case of *Indian Council of Environ-Legal Action v. Union of India*,⁵³

the Indian Supreme Court restated the position thus:

When certain industries by the discharge of acid produced by their plants, caused environmental pollution, that amounted to a violation of the right to life enshrined in Article 21 of the Indian Constitution... The respondents are absolutely liable to compensate for harm caused to villagers in the affected areas; including harm to soil and underground water.⁵⁴

The above decisions portray the national courts' attitude towards the protection of the right to a healthy environment through the greening of the existing human rights provisions of the countries' respective constitutions and also show how the realisation of the right to a healthy environment positively affects other rights such as the right to life.

It is important to note that the right to a healthy environment as recognised by countries and international bodies in national and international legislations, is expressed in different ways, as it may impose a procedural obligation, a substantive obligation, or a combination of both.⁵⁵ What this implies is that in some laws, the right to a healthy environment is a procedural one as the state is told what to do, to safely guide the right to a healthy environment while in others it is a right bestowed on the citizen. A good example of a procedural obligation is the Hawaii Constitution which after providing for the citizen's right to a healthy environment went further to provide for the enforcement procedure thus: "any person may enforce this right against any

⁵³ (1996) All India Reports (AIR) SC 1446.

⁵⁴ Ibid.

⁵⁵ J. H. Knox, 'Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: Compilation of Good Practices,' UN Doc A/HRC/28/61 (3 February 2015).

party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.”⁵⁶

In the case of the substantive obligation, it provides that “each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources.”⁵⁷ From Hawaii Constitution, it can be seen that some constitutions combine the procedural and substantive obligations, another example is the Norway Constitution which provides that “the State authorities shall issue further provisions for the implementation of these principles.”⁵⁸ Similarly, Article 66(1) of the Portuguese Constitution states that “everyone shall possess the right to a healthy and ecologically balanced human living environment and the duty to defend it.”⁵⁹

It must be noted that the right to a healthy environment does not necessitate creating a new “environmental component” of the right to life, liberty, or security of the person, rather, it entails the recognition that environmental degradation can cause the loss of life, liberty, or security of the person just as surely as other state actions.⁶⁰

4.0 THE PROTECTION OF HUMAN RIGHT TO HEALTHY ENVIRONMENT IN NIGERIA

The Constitution of the Federal Republic of Nigeria 1999 (1999 Constitution) makes provision for the environmental objectives of the government. Section 20 of the Constitution mandates the government to “protect and improve the environment and

⁵⁶ Hawaiian Kingdom Constitution of 1864 (as amended), Article 11, Section 9.

⁵⁷ Ibid.

⁵⁸ Norway Constitution 1814 as amended in 2020, Article 112.

⁵⁹ Constitution of the Portuguese Republic 1976(as amended), Article 66.

⁶⁰ L. M. Collins, “Are We There Yet? The Right to Environment in International and European Law” (2007) 3:2 *JSDLP*, 119 at 127.

safeguard the water, air and land, forest and wildlife in Nigeria.”⁶¹ With the incorporation of this provision into the 1999 Constitution, hopes were raised that environmental issues have at least been recognised as a constitutional subject in the country, however, these hopes were short-lived due to the hurdles surrounding the enforceability of the Chapter II of the 1999 Constitution. A major shortcoming of the constitutional right to a healthy environment under Chapter II of the 1999 Constitution is that it is often difficult for communities or individuals most affected by environmental degradation to take advantage of their constitutional rights as the Chapter is not justiciable by Section 6(6)(c) of the 1999 Constitution. “A justiciable action is enforceable in court. The sections that constitute Chapter II of the Nigerian Constitution are generally unenforceable in court.”⁶² The provisions of Chapter II are generally not enforceable in court unless there is another provision of the constitution on the same subject or an enactment on the subject in Chapter II.⁶³

A second critique of the constitutional right to a healthy environment is that the Chapter applies only to state action on the directive of what ought to be done and there is no bindingness. “The import of this constitutional limitation is that the observance by the Nigerian government of environmental objectives and principles is not obligatory but purely directory.”⁶⁴ In critiquing the non-justiciability of Chapter II of the

⁶¹ See section 20 of the Constitution of the Federal Republic of Nigeria 1999 (as Amended). In *Attorney-General, Lagos State v Attorney-General, Federation* (2003) 2 NWLR (Pt. 833) 1, the Supreme Court of Nigeria held inter alia, that the main object of section 20 of the 1999 Constitution is to protect the external surroundings of the people and ensure that they live in a safe and secure atmosphere free from any danger to their health or other convenience.

⁶² E. M. Akpambang, “Promoting the Right to A Healthy Environment through Constitutionalism in Nigeria” (2016) 4 (3) *International Journal of Environment and Pollution Research*, 40.

⁶³ *Olafisoye v. F.R.N* [2004] 4 NWLR (pt. 864) 580.

⁶⁴ E. M. Akpambang, “Promoting the Right to A Healthy Environment through Constitutionalism in Nigeria” (2016) 4 (3) *International Journal of Environment and Pollution Research*, 40.

constitution and its effect on the protection of the environment in Nigeria, Fagbohun opined that “...it must be emphasised that a constitutional provision like section 20 is an initiative that is grossly incapable of catalysing desired environmental policy performance.”⁶⁵

Addressing these barriers to environmental justice is a critical precondition to the realisation of constitutional environmental rights for many individuals. In response to the need for the protection of the right to a healthy environment and the principle developed in the case of *Olafisoye v F.R.N.*,⁶⁶ which is to the effect that when “another provision of the constitution makes any provision in chapter II justiciable or an Act of the National Assembly is enacted around the subject, it becomes justiciable.”⁶⁷ The Court is now regulating environmental liability via the enforcement of fundamental human rights in Chapter IV of the Constitution (by greening existing human rights laws). The Nigerian Constitution vests original jurisdiction for the enforcement of fundamental rights action in the High Court of a State where any provision of Chapter IV is, being, or likely, to be contravened.⁶⁸ A party seeking relief under Chapter IV of the 1999 Constitution and the Fundamental Rights (Enforcement Procedure) Rules 2009 must ensure that the main relief and consequential reliefs point directly to a fundamental

⁶⁵ O. Fagbohun, *The Law of Oil Pollution and Environmental Restoration: A Comparative Review* (Odade Publishers, 2010) 317-318.

⁶⁶ *Olafisoye v. F.R.N* [2004] 4 NWLR (pt 864) 580, the court held that when Section 15(5) of the CFRN 1999 is read together with Item 60(a) of the Second Schedule of the CFRN 1999, it can be justiciable. This principle was further reenforced in the cases of *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* (2019) 5 NWLR [Pt 1666] at 568-69; *A.G Lagos State v. A.G Federation & Ors* [2003] 12 NWLR [Pt 764] 1.

⁶⁷ A. Babalola, “The Right to a Clean Environment in Nigeria: A Fundamental Right?” (2020) 26 (1) *Hastings Environmental Law Journal*, 3.

⁶⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended), Section 46(1) (2); *Emeka v Okoroafor* [2017] 11 NWLR [Pt 1577] 410, 478.

right under Chapter IV and a clear deprivation of the same by the other party being sued.⁶⁹

Under the provisions of Chapter IV of the Constitution and the Fundamental Human Right (Enforcement Procedure) Rules 2009, the Courts in Nigeria have begun to give credence to the protection of the right to a healthy environment by greening the provisions of Chapter IV of the constitution and other human right laws. This development is traceable to the African Charter on Human and People's Rights. Article 24 of the African Charter provides that "all peoples shall have the right to a general satisfactory environment favourable to their development."⁷⁰ It is worthy of note that Nigeria is not just a signatory to the Charter but has also domesticated it. By adopting and domesticating the African Charter on Human and People's Rights (Enforcement and Ratification) Act 1983 into its legal framework, Nigeria has made the African Charter's provisions part of its national laws and has thereby given it effect locally.⁷¹ In essence, Article 24 guarantees the African people's right to a healthy environment and by domestication, Nigeria has imbibed the right, making it enforceable in the country.⁷² In the case of *Social and Economic Rights Action Centre and the Centre for Economic and Social Rights (SERAC) v Nigeria*,⁷³ the African Human Rights Commission, in placing heavy reliance on the provisions of Article 24 of the Charter, stated that:

⁶⁹ *Briggs v Harry* [2016] 9 NWLR [Pt 1516] 45, 72-73; *Egbunu v Bornu RadioTelevision Corp.* [1997] 12 NWLR [Pt 531] 29, 38.

⁷⁰ Article 24 of the African Charter on Human and People's Rights (Enforcement and Ratification) Act 1983.

⁷¹ R.T Ako, *Environmental Justice in Developing Countries: Perspectives from Africa and Asia-Pacific* (Routledge, 2013) 4.

⁷² O. K. Anaebo & O. E. Eghosa, "Realising Substantive Rights to Healthy Environment in Nigeria: A Case for Constitutionalisation" (2015) 17(2) *Environmental Law Review*, 82-99.

⁷³ Communication No. 155/96, Case No. ACHPR/COMM/A044/1.

The right to a generally satisfactory environment, as guaranteed under Article 24 of the African Charter or the right to a healthy environment, as it is widely known, therefore imposes clear obligations upon a government. It requires the State to take reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources ...⁷⁴

Regardless of the fact that the provisions of Section 20 of the 1999 Constitution are non-justiciable, it is comforting to know that superior courts in Nigeria are now placing heavy reliance on the provisions of Chapter IV of the Constitution and the African Charter on Human and Peoples' Rights in declaring environmental pollution as unconstitutional, and a breach of the fundamental human right to life. In *Jonah Gbemre v Shell Petroleum Development Company Nigeria Ltd and Others*,⁷⁵ the plaintiff in this case alleged that his community (Iweherekan Community) had suffered the hazards of gas flaring for decades.⁷⁶ The Federal High Court of Nigeria per Justice Nwokorie in ordering that gas flaring must be stopped as it violates the guaranteed constitutional rights to life and human dignity, held thus:

...these constitutionally guaranteed rights inevitably include the right to a clean, poison-free, pollution-free healthy environment.

The actions of the 1st and 2nd respondents in continuing to flare gas in the course of their oil exploration and production activities in the applicants' community is a gross violation of their fundamental right to life (including a healthy environment) and dignity of the human person as enshrined in the Constitution.⁷⁷

The case of *Gbemre v Shell*⁷⁸ is a precedent-setting case and has been regarded as a milestone in the protection of the environment in Nigeria. It is the first judicial authority to declare that gas flaring in the course of oil extraction is illegal,

⁷⁴ Ibid, Paragraph 52 of the Commission's Judgment.

⁷⁵ *Gbemre v. Shell Petroleum Development Company Nigeria Ltd and Others* (2005) AHRLR 151.

⁷⁶ Ibid.

⁷⁷ Ibid, 155.

⁷⁸ Ibid.

unconstitutional, and a breach of the fundamental human right to life and a healthy environment.

It is interesting to note that the Supreme Court has also followed suit in protecting the right to a healthy environment. In *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation*,⁷⁹ two of the Supreme Court Justices expressed remarkable views that the Nigerian Constitution and the African Charter on Human and Peoples Rights, to which Nigeria is a signatory, recognise the fundamental rights of the citizenry to a clean and healthy environment to sustain life through the provisions of Section 33 of the Nigerian Constitution, Article 24 of African Charter, and Section 17(4) of the Oil Pipelines Act respectively. Particularly, in the concurring judgment of Kekere-Ekun, J.S.C, His Lordship held that:

Sections 33 and 20 of the Nigerian Constitution; Article 24 of the African Charter; and Section 17(4) of the Oil Pipelines Act show that the Constitution, the legislature and the African Charter for Human and Peoples' Rights, to which Nigeria is a signatory, recognise the fundamental rights of the citizenry to a clean and healthy environment to sustain life.⁸⁰

As a whole, the provisions of the African Charter and Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 provide strong evidence of converging trends towards greater uniformity and certainty in human rights obligations as they relate to the environment in Nigeria. Nevertheless, it has been argued that the greening of existing human rights by the Courts represents a further legal pathway that has been utilised in protecting the right to a healthy environment, it has yielded little success in

⁷⁹ [2019] 5 NWLR [Pt 1666] 518, 587 and 597.

⁸⁰ *Ibid*, 559-560 and 597-598.

parallel with the human rights challenges.⁸¹ The continued reliance on the right to a satisfactory and adequate environment entrenched in the African Charter that has been ratified and embodied into our municipal law,⁸² is not a safe foundation as the National Assembly⁸³ may choose at any time to amend, modify, or repeal the statute and the courts of law, as well as victims of environmental rights in Nigeria, would be helpless in such a situation.⁸⁴ Thus, scholars have strongly argued that the African Charter is not an appropriate tool for promoting the right to a healthy environment in Nigeria.⁸⁵ Hence, “constitutionalising environmental rights will be a better alternative.”⁸⁶ These opinions are well founded on the dictum of Ogundare, J.S.C., in the case of *General Sani Abacha and 3 Ors v Chief Gani Fawehinmi*,⁸⁷ when he pointed out that although the domesticated African Charter enjoyed “a greater vigour and strength” than any other national law, yet such enjoyment of global fragrance did not “prevent the National Assembly...from removing it from our body of municipal laws by simply repealing” it and that “whether such modification or repeal is wise or just is not a judicial question.”⁸⁸

⁸¹ O. K. Anaebo & O. E. Eghosa, “Realising Substantive Rights to Healthy Environment in Nigeria: A Case for Constitutionalisation” (2015) 17(2) *Environmental Law Review*, 82-99.

⁸² E. M. Akpambang, “Promoting the Right to A Healthy Environment through Constitutionalism in Nigeria” (2016) 4 (3) *International Journal of Environment and Pollution Research*, 40; See the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act Cap. A9, Laws of the Federation of Nigeria 2004

⁸³ Under the Nigerian 1999 Constitution, the legislative powers of the Federal Republic of Nigeria are vested in The National Assembly for the Federation. It consists of a Senate and a House of Representatives section 4 (1) of the Constitution of the Federal Republic of Nigeria.

⁸⁴ E. M. Akpambang, “Promoting the Right to A Healthy Environment through Constitutionalism in Nigeria” (2016) 4 (3) *International Journal of Environment and Pollution Research*, 40.

⁸⁵ Ibid, E.O. Ekhatior, “Improving Access to Environmental Justice under the African Charter on Human and Peoples Right: The Roles of NGOs in Nigeria” (2014) 22 (1) *African Journal of International and Comparative Law* 63; O. K. Anaebo & O. E. Eghosa, “Realising Substantive Rights to Healthy Environment in Nigeria: A Case for Constitutionalisation” (2015) 17(2) *Environmental Law Review*, 82-99.

⁸⁶ Ibid, 26.

⁸⁷ (2000) FWLR (Pt. 4) 533.

⁸⁸ Ibid at 598.

The writers share in the sentiment of the learned authors, given the fact that the right to a healthy environment is not yet a strictly defined area of law, but one whose provisions overlap other areas of law whose provisions can change anytime. It is suggested that a constitutionally justiciable right to a healthy environment will go a long way in helping Nigeria strengthen its framework for environmental protection. Research from countries with a constitutionally protected right to a healthy environment provides persuasive evidence of the tangible benefits of such a right.⁸⁹

5.0 CODIFICATION OF THE HUMAN RIGHT TO A HEALTHY ENVIRONMENT IN THE CONSTITUTION

The inclusion of environmental rights or protection within the human rights framework has been the subject of stringent criticisms.⁹⁰ It has been contended that to treat or place the protection of the environment within the human rights architecture will dilute the human rights regime⁹¹ and ultimately lead to a dangerous decoupling.⁹² However, evidence from countries such as South Africa, Brazil, and Argentina, that have successfully integrated environmental rights into their respective constitutions shows that such fears expressed by the critics are largely unsubstantiated. Instead, these countries have experienced stronger environmental governance without hindering economic growth or diluting the human rights regime.

⁸⁹ L. Wortsman, “‘Greening’ The Charter: Section 7 And the Right to A Healthy Environment’ 2019) 28 *Dalhousie Journal of Legal Studies* 245.

⁹⁰ T. Bulto, ‘The Environment and Human Rights’ in A. Mihr and M. Gibney (eds.), *SAGE Handbook of Human Rights* (London, 2014) 1015.

⁹¹ P. Alston ‘Conjuring up New Human Rights: A Proposal for Quality Control’ (1984) 78 *American Journal of International Law* 607.

⁹² O. K. Anaebo & O. E. Eghosa, “Realising Substantive Rights to Healthy Environment in Nigeria: A Case for Constitutionalisation” (2015) 17(2) *Environmental Law Review*, 26.

Notwithstanding the criticisms of the interrelatedness between human rights and the environment, the right to a healthy environment has been recognised globally as the foundation for the application or enforcement of other fundamental human rights.⁹³

As highlighted earlier in this article, the right to a healthy environment is not constitutionally enforceable in Nigeria, rather, heavy reliance has been placed on the African Charter, which is beset by many ills. This article, therefore, argues for the incorporation of the right to a healthy environment in Nigeria in Chapter IV of the constitution which contains rights that “are enforceable against the State and citizens”⁹⁴ instead of heavily relying on the African Charter. The advantages of making the right to a healthy environment enforceable in the Constitution are compelling. These include the ability to hold the government, corporate entities, and individuals accountable for actions that lead to environmental and health harms, to prevent new governments from rolling back protections put in place by previous governments, and to seek redress for potential future harms, even in cases where scientific evidence may not be conclusive. These elements are immensely important to building a stronger framework for environmental protection.⁹⁵

The incorporation of the right to a healthy environment, which is enforceable, in the Constitution of Nigeria can be actualised by “amending the constitution to provide for a justiciable right to a healthy environment or by expanding the sphere of the extant

⁹³ L. A. Atsegbua, V. Akpotaire, F. Dimowo, *Environmental Law in Nigeria: Theory and Practice* (Ababa Press: Lagos, 2004) 131. Also see U.J. Orji “Right to a Clean Environment: Some Reflections” (2012) 42(4-5) *Environmental Policy and Law*, 285.

⁹⁴ E.O. Ekhatior, “Improving Access to Environmental Justice under the African Charter on Human and Peoples Right: The Roles of NGOs in Nigeria” (2014) 22 (1) *African Journal of International and Comparative Law*, 63, 66.

⁹⁵ L. Wortsman, ““Greening” The Charter: Section 7 And the Right to A Healthy Environment” (2019) 28 *Dalhousie Journal of Legal Studies* 264.

justiciable rights embedded in the constitution to include the right to a healthy environment.”⁹⁶ In support of constitutionalising the right to a healthy environment in Nigeria, Ako and Adedeji proposed that this can be achieved through:

...amending the CFRN to make the environmental rights enforceable or passing new legislation on the issues. It is however preferable to raise the status of environmental rights to a constitutional level to avoid the trade-offs that are common occurrences in the legislative process. The supremacy of Constitutional guarantees plays out in the very nature of the constitution as the ground norm of laws in any democratic nation.

The proposal for the amendment of the constitution is a great way of actualising this goal. It is, however, going to be difficult taking into consideration the provisions of Section 9 of the Constitution of the Federal Republic of Nigeria 1999, which contains stringent constitutional amendment procedures. It has been argued by Anaebo and Eghosa that “due to the cumbersome amendment procedure in the constitution, a constitutional right to the environment will not be actualised in Nigeria in the nearest future,”⁹⁷and “a possible pathway will be the expansion of the extant civil and political rights in the constitution.”⁹⁸ The expansion of the extant human rights instrument by greening their provisions is a good leeway but is not the best approach in solving the problem due to the lack of certainty of the provisions and they not being made specifically to address the right to a healthy environment. Given the global recognition of the importance of clean air, safe water, healthy ecosystems, and a stable climate to the ability of both current and future generations to lead healthy and fulfilling lives, it

⁹⁶ O. K. Anaebo & O. E. Eghosa, “Realising Substantive Rights to Healthy Environment in Nigeria: A Case for Constitutionalisation” (2015) 17(2) *Environmental Law Review*, 26.

⁹⁷ *Ibid*, 26.

⁹⁸ *Ibid*.

is anticipated that the federal legislature will soon do the needful by amending the constitution to incorporate the right to a healthy environment.

6.0 BENEFITS OF A CONSTITUTIONALLY ENFORCEABLE RIGHT TO A HEALTHY ENVIRONMENT

The benefits of a constitutionally enforceable right to a healthy environment are compelling and are immensely important to building a stronger framework for environmental protection.⁹⁹ The following are the benefits associated with the recognition of a right to a healthy environment.

6.1 Empowering Citizens to Pursue Environmental Justice and Achieve Better Outcomes for the Environment

The enforceability of the right to a healthy environment in the constitution will have a positive influence on access to justice for environmental matters in Nigeria by allowing individuals in Nigeria to rely on the right to better advocate for a healthier environment. “Access to justice is the right to seek justice for legal issues and includes access to effective remedies.”¹⁰⁰ A glance at countries that have provided for a constitutionally justiciable right to a healthy environment revealed that several positive developments have been recorded in their law reform and better enforcement of environmental laws, regulations and policies.¹⁰¹ For example, in South Africa, whose constitution contains a justiciable right to a healthy environment, the citizens have

⁹⁹ L. Wortsman, “‘Greening’ The Charter: Section 7 And the Right to A Healthy Environment’ (2019) 28 Dalhousie Journal of Legal Studies 264.

¹⁰⁰ EDO, *A Healthy Environment is a Human Right: Report on the Status of the Human Right to a Healthy Environment in Australia* (Environmental Defenders Office Ltd 2022) 37.

¹⁰¹ *Ibid.*

been able to enforce the provisions of the Constitution in advancing healthy environmental practices. In the case of *Director Mineral Development, Gauteng Region and Another v Save the Vaal Environment and Others*,¹⁰² the respondents, an association of property owners along the Vaal River concerned about upholding the environmental integrity and value of the Vaal River succeeded in their action to prevent open-cast mining in the area. Similarly, in Brazil, the constitutional recognition of a right to a healthy environment in 1988 led to a significant increase in the enforcement of environmental laws. This reform empowered public and non-governmental organizations to promptly report alleged abuse of environmental rights to an independent body, the “*Ministerio Publico*” which investigated the reported cases and prosecuted those found wanting.¹⁰³ Between 1984 and 2004, in the state of Sao Paolo alone, the *Ministerio Publico* instituted over 4,000 public civil actions with respect to environmental violations, addressing issues ranging from air pollution to deforestation.¹⁰⁴

This, therefore, shows that the constitutional enforcement of the right to a healthy environment in Nigeria will result in stronger environmental laws, regulations and policies which will “empower individuals and communities to defend their environments, providing a framework for holding offenders accountable and finding new legal arguments and recourse.”¹⁰⁵

¹⁰² [1999] 133/98, 2 All SA 381.

¹⁰³ D. R. Boyd, “Catalyst for Change: Evaluating Forty Years of Experience in Implementing the Right to a Healthy Environment” in J. H. Knox & R. Pejan, (eds), *The Human Right to a Healthy Environment* (Cambridge University Press, 2018) 17 at 28.

¹⁰⁴ Ibid.

¹⁰⁵ M. A. Orellana, “Time to Act - Recognising the Right to a Healthy Environment” available at <https://www.universal-rights.org/time-act-recognising-right-healthy-environment/> (accessed 31 July 2024).

The justiciability of the right to a healthy environment will go a long way in offering some hope to many communities already hard-hit by environmental degradation and climate change. To make the enjoyment of the right a reality for those most impacted, it is suggested that governments should recognise the right at the national level and develop strong environmental protection laws and policies to safeguard the rights of populaces.

6.2 Encourages Stronger Environmental Laws and Governance

There is great potential for a constitutionally protected right to a healthy environment under Chapter IV of the constitution to strengthen the Nigerian approach to environmental protection. This is conspicuously evident in research from other countries that have enacted in their constitution a right to a healthy environment. Such jurisdictions validate the point that constitutionally protected environmental rights result in benefits including: “the provision of alternative avenues for redress for environmental harm, the strengthening of environmental laws, and the improvement of environmental performance.”¹⁰⁶ For example, Argentina’s constitutional reform in 1994 to include the right to a healthy environment amongst the bulk of the justiciable human rights in Argentina’s constitution, led to the enactment of new legislation spelling out the “minimum standards for industrial waste and clean water and governing access to environmental information.”¹⁰⁷ Similarly, in the Philippines, the constitutional recognition of the right to a healthy environment strengthened the environmental laws

¹⁰⁶ L. Wortsman, ““Greening” The Charter: Section 7 And the Right to A Healthy Environment” (2019) 28 *Dalhousie Journal of Legal Studies* 256.

¹⁰⁷ *Ibid*, 261.

of the Philippines and also brought about the enactment of special rules of procedure for environmental litigation, with the aim of facilitating the protection of the right to a healthy environment through the smooth prosecution of environmental right abuses.¹⁰⁸

The bulk of extant environmental legislations in Nigeria¹⁰⁹ including the constitution which is the ground norm, fail to provide for a justiciable right to a healthy environment in Nigeria. As such, these statutes provide little in the way of redress for environmental and health hazards.

A constitutionally enforceable right to a healthy environment will facilitate increased implementation and enforcement of extant environmental laws and strengthen the Nigerian approach to environmental protection.

6.3 Healthier Environment

As our generation faces serious environmental and social crises, the potential of the constitutionally enforceable right to a healthy environment for progressive development and a healthier environment cannot be overemphasised. The human right to a healthy environment brings together the environmental dimensions of civil, cultural, economic, political, and social rights, and protects the core elements of the natural environment that enable a life of dignity.¹¹⁰ Studies have revealed that a

¹⁰⁸ UNGAOR, Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, 73rd Sess, Annex, Agenda Item 74(b), UN Doc A/73/188 (2018) at para 42.

¹⁰⁹ For a comprehensive list of some of the extant environmental laws in Nigeria see M. T. Ladan, "Review of NESREA Act 2007 and Regulations 2009-2011: A New Dawn in Environmental Compliance and Enforcement in Nigeria" (2012) 8(1) *Law, Environment and Development Journal* 116.

¹¹⁰ M. A. Orellana, "Time to Act - Recognising the Right to a Healthy Environment" available at <https://www.universal-rights.org/time-act-recognising-right-healthy-environment/> (accessed 31 July 2024).

constitutional justiciable right to a healthy environment is positively related to increases in the proportion of populations with access to safe drinking water.¹¹¹ The studies further demonstrate that the constitutional justiciable right to a healthy environment provides tangible benefits in terms of a healthier environment.¹¹²

7.0 CONCLUSION

The article examined inter alia, the correlation between human rights and the environment, and argued that environmental degradation has the possibility of affecting the realisation and enjoyment of other categories of enforceable fundamental rights, such as the right to life, food, health, education, and even the right to freedom of religion. Taking into cognisance the prominent role, a healthy environment plays in human life and well-being, the article postulated that the right to a clean and healthy environment should be rendered enforceable under the Nigerian Constitution by including it in Chapter IV of the constitution which contains enforceable fundamental human rights as it is obtainable in some other countries.

The recognition of the right to a healthy environment under Chapter IV of the Nigerian Constitution is important because it will strengthen Nigeria's approach to environmental protection. Research from countries with constitutionally enforceable environmental rights provides compelling evidence of their advantages. These include providing an alternative route to access remedies, preventing the rollback of

¹¹¹ David R Boyd, "Catalyst for Change: Evaluating Forty Years of Experience in Implementing the Right to a Healthy Environment" in John H Knox & Ramin Pejan (eds), *The Human Right to a Healthy Environment* (New York: Cambridge University Press, 2018) 17., L. Wortsman, "'Greening' The Charter: Section 7 And the Right to A Healthy Environment' (2019) 28 Dalhousie Journal of Legal Studies 264.

¹¹² Ibid.

environmental standards, and strengthening environmental laws - tangible benefits that can significantly contribute to improved environmental performance.