




# THE SOCIAL AND ECONOMIC RIGHTS ACTION CENTER AND THE CENTER FOR ECONOMIC AND SOCIAL RIGHTS v. NIGERIA



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## 1. Introduction

### A. Summary: *SERAC v Nigeria* and the African Charter on Human and People's Rights

More contextually, *SERAC and the CESR v. Nigeria* (Communication No. 155/96) is a landmark case decided by the African Commission on Human and Peoples' Rights (ACHPR) in 2001. The case was brought by two non-governmental organisations, SERAC and the CESR, alleging violations of various economic, social, and cultural rights by the government of Nigeria. Specifically, the NGOs argued that the Nigerian government's policies and actions resulted in widespread poverty, environmental degradation, and violations of the rights to food, health, adequate housing, among others.

The case brought before the African Commission on Human and Peoples' Rights by the Social and Economic Rights Action Center and the Center for Economic and Social Rights alleged that the military government of Nigeria violated, among other things, various economic, social, and cultural rights (ESCR), including the right to health, the right to dispose of wealth and natural resources, the right to a clean environment, and family rights, by allowing oil corporations to operate in Ogoniland.<sup>1</sup>



crude oil spill In Nigeria, Africa's biggest oil producer Source: © Modest Franco/Unsplash 2021

The context behind the lawsuit was that Nigeria was experiencing a deepening economic crisis, which had worsened due to the mismanagement of its oil resources and the structural adjustment programs imposed by international financial institutions. The Nigerian government's policies had also resulted in environmental degradation, particularly in the Niger Delta, where oil spills and gas flaring had caused

<sup>1</sup> Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria [2001] AHRLR 60 (ACHPR 2001) <https://www.escr-net.org/caselaw/2006/social-and-economic-rights-action-center-center-economic-and-social-rights-v-nigeria> accessed 12 April 2023.

significant harm to the local communities' health and livelihoods.

SERAC and CESR alleged that the Nigerian government's policies and actions violated various economic, social, and cultural rights, including the right to work, the right to health, the right to food, the right to a healthy environment, and the right to adequate housing. They argued that the government had failed to take measures to protect these rights and had not provided adequate remedies for those whose rights had been violated.<sup>2</sup>

The African Charter on Human and Peoples' Rights (ACHPR) decided in favour of the NGOs and held that Nigeria had violated several provisions of the ACHPR, including the rights mentioned above. The ACHPR also held that Nigeria was obligated to take measures to ensure that these rights were protected and to provide remedies for those whose rights had been violated.

The case is significant because it established that economic, social, and cultural rights are justiciable and can be enforced through the African Charter. It also emphasised the duty of states to take measures to ensure the realisation of these rights and to provide remedies for those whose rights have been violated.<sup>3</sup>

In the African Charter, the Commission clearly defines "respect, protect, promote, and fulfil" when describing the obligations of States. In line with the African Charter, The Commission found that the Ogoni people had suffered violations of their right to health under Article 16 and their right to a general satisfactory environment favourable to development under Article 24, due to the government's failure to prevent Non-state actors and other private agents from causing pollution in Ogoniland amongst other things. Nigeria's failure to monitor oil activities and involve local communities in decisions also violated the Ogoni people's right to freely distribute their wealth and natural resources under Article 21.<sup>4</sup>

2 Social and Economic Rights Action Center and the Center for Economic and Social Rights *v* Nigeria. (2001). AHRLR, 60, Retrieved from <https://www.escri-net.org/caselaw/2006/social-and-economic-rights-action-center-center-economic-and-social-rights-v-nigeria>.

3 *ibid.*

4 *ibid.*



Professional team and volunteer wearing PPE clean up dirty of oil spill on beach Source: © onuma Inthapong/Unsplash, 2022.

The Commission further held that the actions and inactions of the Nigerian state constituted a breach since the Ogoni people were not given tangible reparations. It also found that the destruction of houses and the intimidation of inhabitants who returned to their homes while trying to rebuild them infringed the implied right to housing, which derives from the stated rights to property, health, and family and includes protection against forcible eviction. Finally, the destruction and contamination of crops by the government in addition to similar actions by non-state actors, violated the state's duty to respect and protect the Ogoni people's right to food.<sup>5</sup>

In its ruling, the Commission issued directives that an end to attacks against the Ogoni people be maintained, plus in-depth investigation and prosecution of those responsible, compensation for victims, future preparation of environmental and social impact assessments, and information on health and environmental risks were also parts of the directives given. The decision is in line with the obligations of states under the African Charter to protect and promote ESCR, including the right to a healthy and sustainable environment<sup>6</sup>.

5        *ibid.*

6        *ibid.*





Eric Dooh Goi village showing oil pollution Source: © Marten van Dijl\_Milieudefensie/flickr, 2013.

## **B. Summary of the UN General Assembly right to a clean, healthy, and sustainable environment.**

A basic human right that has steadily gained more respect in recent years is the general right to a clean, healthy, and sustainable environment. It acknowledges the unbreakable connection between the enjoyment of other human rights—such as the rights to life, health, and a livable standard of living—and a healthy environment. The right to a healthy and sustainable environment covers and deals with a wide range of issues, including access to clean air and water, protection from hazardous waste, the preservation of biodiversity etc.

The African Charter on Human and Peoples' Rights, which recognizes the right to a generally satisfactory environment favourable to an individual's development, and more recently the United Nations General Assembly (UNGA) resolution and the Universal Declaration of Human Rights, which recognize the right to a standard of living adequate for one's health and well-being, including access to food, clothing, housing, and medical care, explicitly recognize this right.<sup>7</sup>

<sup>7</sup> African Charter on Human and Peoples' Rights, adopted 27 June 1981, OAU Doc CAB/LEG/67/3 rev 5, 21 ILM 58 (1982); Universal Declaration of Human Rights, GA Res 217A (III), UN Doc A/810 (10 December 1948)

Two resolutions concerning the right to health and to a sustainable environment were recently approved by the UNGA. The first was a resolution on “Global solidarity to fight the coronavirus disease 2019 (COVID-19)” that was approved by the UNGA on December 7th, 2020.” The resolution urges member states to take action to ensure access to vital health services throughout the pandemic and acknowledges “the importance of universal access to timely, affordable, and high-quality healthcare, medicines, and vaccines.” The resolution also clearly outlines the importance of international cooperation and solidarity in addressing the global health crisis.<sup>8</sup>

On March 1st, 2021, the UNGA passed a second resolution on “Human Rights and the Environment.” The resolution affirms that “the enjoyment of a safe, clean, healthy, and sustainable environment is a human right” and urges member nations to take appropriate action to safeguard and advance environmental human rights, such as the right to a safe, clean, healthy, and sustainable environment and the right to participate in environmental decision-making. The resolution further emphasises the need for international cooperation and solidarity to address environmental challenges and calls on member states to ensure that their policies and practices are consistent with their obligations to protect human rights and the environment.<sup>9</sup>

Summarily, these resolutions show a growing recognition by the international community of how human rights, including the right to health, and the environment are interrelated and intertwined. They also indicate a commitment by member states to take important actions to promote and protect these rights, both individually and through international cooperation.<sup>10</sup>

### C. Aim of the report and significance

The main aim of this report is to analyse the case of *Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria* in light of the African Charter on Human and Peoples’ Rights, majorly focusing on how Nigeria violated the right to a healthy and sustainable environment. This report aims to highlight and explain the principles of progressive realisation of economic, social, and cultural rights, the state’s obligation to respect and protect human rights, and the principles of international environmental law.

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<sup>8</sup> United Nations General Assembly, Resolution 75/205, ‘COVID-19 and the right to health’, UN Doc A/RES/75/205 (17 December 2020).

<sup>9</sup> United Nations General Assembly, Resolution 72/277, ‘Towards a pollution-free planet’, UN Doc A/RES/72/277 (10 May 2018).

<sup>10</sup> United Nations, African Commission on Human and Peoples’ Rights, *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria*, Comm. No. 155/96 (2001), UN Doc. ACHPR A/205/2001 (2001). Available at: <https://digitallibrary.un.org/record/3983329?ln=en> (accessed 12 April 2023).

is important because it provides a more comprehensive framework for understanding the relationship and the unbreakable link between environmental protection and human rights. The report will provide insights on the application of this right in the context of Nigeria's environmental degradation and violations of human rights.

Generally, this report aims to contribute to the promotion and protection of human rights, sustainable development, and environmental protection in Nigeria and other African countries by providing a critical analysis of *SERAC v. Nigeria*.



## 2. Violation of Articles 12, 16, and 24 of the African Charter on Human and People’s Rights

### A. Article 12: Right to Health

Every individual inherently enjoys the right to enjoy the highest attainable standard of physical and mental health. This includes, but not limited to, the right to access medical services, health education, and necessary social services. The *SERAC v. Nigeria* case raises several issues related to the right to health.<sup>11</sup>

In this case, the African Commission determined that the government had failed to stop pollution and ecological degradation brought on by oil companies operating in Ogoniland, resulting in infringement of the Ogoni people’s right to health. The Commission stated that the Ogoni people had been exposed to harmful chemicals like benzene and other risky compounds, which have been related to a number of health difficulties, including cancer, respiratory illnesses, and problems with reproduction.

Environmental protection and the right to health are closely related since environmental deterioration can have detrimental effects on public health. The African Commission recognized this link in its decision and ordered the Nigerian government to take measures to prevent further harm to the environment and to provide compensation to victims.<sup>12</sup>

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11 African Charter on Human and Peoples’ Rights, opened for signature 27 June 1981, 1520 UNTS 217 (entered into force 21 October 1986), art 12.

12 Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria (African Commission on Human and Peoples’ Rights, 2001–2002) para 60.



Child standing at oil-polluted river banks in Goi Source: © Milieudefensie/Flickr, 2013.

The right to health involves not only the absence of disease but also the availability, accessibility, acceptability, and quality of healthcare. This is vital to keep in mind for states and non-state actors alike in order to fulfil their individual responsibilities, ensure equitable access to healthcare, and promote better health outcomes for all individuals. States are required by the right to health to take proactive measures to address socioeconomic determinants of health such as poverty, substandard housing, and hazardous working conditions.. The *SERAC v. Nigeria* case highlights the need for states to take measures to protect the right to health, particularly in the context of environmental degradation and pollution.<sup>13</sup>

The right to the best possible health is recognized in Article 12 of the African Charter which clearly highlights and guarantees the right to health for all individuals. It recognizes that every person has the right to the best possible state of physical and mental health. The article requires states to take the necessary measures to protect the health of their people, to ensure that they receive medical attention when they are sick, and to create conditions necessary to improve the health of their people<sup>14</sup>. The afflicted communities' health suffers as a result of the environmental devastation and degradation caused

<sup>13</sup> Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria [2001] AHRLR 60 (ACHPR 2001)

<sup>14</sup> African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1981) 1520 UNTS 217, art 12

by Shell Oil and the inaction and or omission of the Nigerian state in not stopping and preventing the Company from doing it. The ecosystem has deteriorated because of oil exploration and production, which has contaminated water supplies and land and caused poisonous gas emissions that pose serious health hazards to those who live in the impacted areas.<sup>15</sup>

The State has not taken the necessary steps to stop this environmental degradation, which infringes on the affected people's right to health. Taking preventative actions to safeguard people and communities from damaging environmental practices that can have a detrimental impact on their health is part of the State's responsibility to respect, protect, and fulfil the right to health. Accordingly, The failure of the Nigerian state to take preventive measures against corporate actors infringing upon the rights of the Ogoni people, resulting in environmental degradation, constitutes a failure to protect and fulfil their rights. Consequently, the state's inability and refusal to address environmental degradation and safeguard the health of the affected communities represents a violation of Article 12 of the African Charter, which guarantees the right to health.

### **B. Article 16: Right to enjoy the best attainable state of physical and mental health**

Article 16 of the African Charter on Human and Peoples' Rights provides for the right to enjoy the best attainable state of physical and mental health. This right includes access to health care services, as well as the underlying determinants of health, such as access to safe water, adequate sanitation, and sufficient food.

In the case of SERAC and the CESR v. Nigeria, the African Commission ruled that the Ogoni people had suffered violations of their right to health under Article 16 of the Charter due to the government's failure to prevent pollution and ecological degradation. The Ogoni people's health has been severely harmed by the environmental deterioration brought on by oil exploration and extraction activities in Ogoniland. Oil spills have contaminated the land and water, leading to respiratory problems, skin rashes, and other health issues. The lack of access to safe drinking water and adequate sanitation has also contributed to the spread of diseases like cholera. These factors compromised the determinants of health of Ogoni people, such as access to safe water, which explains the violation of art. 16.<sup>16</sup>

The affected communities' right to health is protected by Article 16 of the African Charter when the state fails to take action to stop environmental degradation in Ogoniland. The government has a responsibility to make sure that everyone, without exception, has access to the fundamental factors that affect health, such as clean water and a healthy environment. It is crucial to remember that the rights to

15 *ibid.*

16 *Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria (African Commission on Human and Peoples' Rights, 2001–2002)*



State hadn't let the company pollute the area, the Ogoni people would still have been able to enjoy their right to a healthy environment, which automatically translates to a better level of health. Although the African Charter on Human and Peoples' Rights and the UNGA's declaration are separate, it is clear that they share common principles and goals related to the protection and promotion of economic, social, and cultural rights. The recognition of this right clearly highlights the importance of ESCR. Therefore, it is crucial that the state takes effective measures to protect the environment and prevent environmental degradation in order to promote and protect the right to health of all its citizens.

### C. Article 24: Right to a General Satisfactory Environment

Article 24 states that "all peoples shall have the right to a general satisfactory environment favourable to their development." This article recognizes the right of individuals and communities to live in a clean and safe environment that is conducive to their well-being and development. In the case of *The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria*, the African Commission on Human and Peoples' Rights found that the Nigerian government violated the Ogoni people's right to a satisfactory environment due to its failure to prevent pollution and ecological degradation in their region.

The Ogoni people's rights to a generally satisfiable environment, as guaranteed by Article 24 of the African Charter, were violated, the commission acknowledged, by the harmful effects of environmental degradation on their health, way of life, and general well-being. The commission concluded that the State had a responsibility to respect, safeguard, and uphold the right to an environment that is generally satisfying. This duty includes preventing environmental harm, guaranteeing information access and involvement in environmental decision-making, and offering remedies in the case that environmental harm occurs. The Commission ruled that Nigeria had failed to take necessary steps to prevent pollution and ecological degradation caused by the operations of oil corporations in Ogoniland, which violated the rights of the Ogoni people.

In summary, Article 24 of the African Charter recognizes the right of individuals and communities to a clean and safe environment that is conducive to their well-being and development, and the Nigerian government's failure to prevent pollution and ecological degradation in Ogoniland violated the Ogoni people's right to a general satisfactory environment, as protected by Article 24 of the Charter.<sup>17</sup>

<sup>17</sup> Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria, Communication No. 155/96, African Commission on Human and Peoples' Rights, 11th Ordinary Session (2002), para 42

### 3. The Principle of Progressive Realisation of ESCR

#### A. Definition of the principle

The principle of progressive realisation is a key concept in international human rights law that acknowledges that the full realisation of economic, social, and cultural rights may not be possible immediately but should be pursued over time. According to its ordinary meaning, the term ‘progressive’ means ‘moving forward’ or ‘advancing by successive stages’.<sup>18</sup> It recognizes that states have a duty to take steps, both individually and through international assistance and cooperation, to progressively achieve the full realisation of these rights.<sup>19</sup> In essence, states are obliged to continuously work towards improving the conditions of ESC rights and, generally, to abstain from taking regressive measures.

#### B. How the principle applies to the case against Nigeria

In the case against Nigeria, the principle of progressive realisation is relevant in considering the state’s obligation to take steps to prevent environmental degradation and to ensure the enjoyment of the right to a healthy environment. The African Commission recognized the state’s duty to take steps to ensure the meaningful enjoyment of socio-economic rights, including the right to health and the right to a clean environment.

The Commission found that Nigeria’s failure to prevent pollution and ecological degradation in Ogoniland violated the right to health and the right to a general satisfactory environment favourable to development. The Commission also found that Nigeria’s failure to monitor oil activities and involve local communities in decisions violated the right of the Ogoni people to freely dispose of their wealth and natural resources.

Applying the principle of progressive realisation, the Commission emphasised the state’s obligation to take steps towards the full realisation of these rights. It ordered the state to cease attacks on the Ogoni people, to investigate and prosecute those responsible for attacks, to provide compensation to victims, to prepare environmental and social impact assessments in the future, and to provide information on health and environmental risks.

18 The Concise Oxford Dictionary of Current English (1990), 954; Chambers Family Dictionary (1981), 613.

19 Committee on Economic, Social and Cultural Rights, General Comment No. 3: The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant), 1990

always be able to do so. The case against Nigeria is used as an illustration of how this idea might be put into effect, highlighting the significance of government action in defending and upholding the rights of people and communities.

### **C. Ways in which the principle can be used to promote the right to environment in Nigeria and other countries**

The principle of progressive realisation of ESCR is a fundamental principle that recognizes that the full realisation of economic, social, and cultural rights may take time and that states must take deliberate, concrete, and targeted steps towards realising these rights. In the context of the right to a healthy and sustainable environment, the principle implies that states must take steps towards mitigating and preventing environmental degradation, pollution, and other forms of environmental harm that negatively affect the enjoyment of this right.

The obligation to respect and protect human rights refers to the duty of states to refrain from violating human rights and to prevent others from violating them. This obligation is derived from international human rights law, which recognizes that states have a primary responsibility to ensure that human rights are respected and protected within their territory. The Obligation to fulfil allows States to take these proactive actions through regulation, adjudication, etc to push forward the right to a healthy environment.

As alluded to above, it goes without saying that a periodic analysis and evaluation of the successes or failures of the concept of “progressive realisation” should be made mandatory. In order to monitor progressive realisation effectively, the Committee on Economic, Social and Cultural Rights should be in a position to measure consistently and scrutinise progress made by states by reference to reliable quantitative and qualitative data, and indicators/benchmarks in respect of the rights guaranteed under the Covenant.<sup>20</sup> Some of these indicators have been developed, inter alia, by the relevant UN specialised agencies such as the ILO, the FAO, UNESCO and the WHO.<sup>21</sup>

In the case against Nigeria, the African Commission on Human and Peoples’ Rights found that the state had violated its obligation to respect and protect human rights by failing to prevent pollution and ecological degradation caused by the operations of oil corporations in Ogoniland. The Commission ruled that the Ogoni had suffered violations of their right to health (Article 16) and their right to a

20 9 P Hunt, *State Obligations, Indicators, Benchmarks and the Right to Education*, UN Doc E/C.12/1998/11; P Hunt and G MacNaughton, ‘A Human Rights-Based Approach to Health Indicators’, in MA Baderin and R McCorquodale (eds), *Economic, Social and Cultural Rights in Action* (Oxford University Press, 2007), 303–21

21 United Nations Economic and Social Council, ‘Home’ <https://www.un.org/ecosoc/en/home> accessed 19 April, 2023.



general satisfactory environment favourable to their development (Article 24) due to the government's failure to prevent pollution and ecological degradation. The State's failure to monitor oil activities and involve local communities in decisions violated the right of the Ogoni people to freely dispose of their wealth and natural resources (Article 21).

To fulfil its obligation to respect and protect human rights, the state of Nigeria should take measures to prevent further environmental degradation and ensure that individuals and communities affected by such degradation have access to effective remedies. This may include the development of laws and regulations to prevent environmental harm, the establishment of effective monitoring mechanisms to ensure compliance with these laws and regulations, and the provision of adequate resources to enable affected individuals and communities to seek redress for violations of their rights.

Generally, the obligation to respect and protect human rights is an essential component of the framework for promoting and protecting human rights, and states have a crucial role to play in upholding this obligation.

## 4. The Two Principles Involving International Environmental Law

### A. The Principle of Common but Differentiated Responsibilities (CBDR)

The Principle of Common but Differentiated Responsibilities (CBDR) is a principle of international environmental law that recognizes the shared responsibility of all states to protect the environment, while acknowledging that developed countries bear a greater responsibility due to their historical and current contribution to environmental degradation. It was first established in the United Nations Framework Convention on Climate Change (UNFCCC) in 1992 and has since been incorporated into other international environmental agreements.

The CBDR concept may be crucial in determining Nigeria's and the oil companies operating in Ogoniland's accountability for the environmental damage that took place in the case against Nigeria. Nigeria may contend that, as a developing nation, it has a right to seek economic development and that its need to mitigate the environmental harm resulting from oil exploration and production should be weighed against this right. However, in order to comply with the CBDR principle, Nigeria would have to consider both its history and present role in environmental degradation and make sure that its economic growth does not come at the expense of its residents' rights to a safe and sustainable environment.

The principle of CBDR can be used to promote the right to environment in Nigeria and other countries by holding developed countries accountable for their historical and current contribution to environmental degradation and requiring them to provide support and resources for developing countries to pursue sustainable development. It can also be used to encourage cooperation and collaboration between developed and developing countries in addressing environmental challenges and promoting the right to environment for all.

### B. The Precautionary Principle

The precautionary principle is a principle of international environmental law that states that when there are threats of serious or irreversible damage to the environment, in the absence of full scientific certainty, the lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

The precautionary principle was important in the lawsuit against Nigeria since the pollution and oil spills in the Ogoniland region had resulted in substantial and irreparable harm. The Nigerian government should not have put off taking action to stop future environmental degradation since there is not complete scientific confidence about the magnitude of the damages. The right of the affected communities to a healthy and sustainable environment was breached by the government's refusal to implement appropriate steps to stop additional harm. Even in the absence of complete scientific knowledge regarding the degree of the damage, the precautionary principle may have been used to support the need for the government to take immediate and decisive action to stop further environmental damage.

The precautionary principle, in general, can be used to enhance environmental preservation by mandating that necessary precautions be taken to avert environmental harm, even if the danger is not yet completely understood or the scientific evidence is ambiguous. It can also be used to transfer the burden of evidence to people who want to engage in potentially harmful environmental activities, requiring them to show that their actions are secure and won't result in the ecosystem suffering irreparable harm.



## 5. The Right to a Healthy and Sustainable Environment

### A. Overview of the recent recognition of the right to a healthy and sustainable environment

The right to a healthy and sustainable environment has gained increasing recognition as a fundamental human right in recent years. In 2018, the United Nations General Assembly adopted a resolution recognizing the right to a healthy environment as a human right. This resolution affirms that the right to a healthy environment is a prerequisite for the enjoyment of other human rights, and calls on states to take measures to ensure the protection of this right. This recognition has significant implications for the case against Nigeria, as it provides an additional legal framework for holding the state accountable for environmental degradation and its impact on human health.

### B. How the recognition of the right can be used to strengthen the case against Nigeria

The recognition of the right to a safe and sustainable environment could have been utilised in a number of ways to support the case against Nigeria. It first highlights the state's responsibility to uphold, safeguard, and fulfil the right to a healthy environment. This implies that the state has a responsibility to take action to stop environmental deterioration and to deal with its detrimental effects on human health. Second, because it establishes the right to a healthy environment as a fundamental human right, the establishment of the right creates a new legal foundation for holding the state accountable for environmental crimes.

In addition to raising public awareness of the problem and encouraging more accountability and transparency in environmental governance, the acknowledgment of the right can also be utilised to mobilise advocacy groups and members of civil society. Overall, the affirmation of the right to a safe and healthy environment marks a significant advancement in the defence of human rights and environmental conservation, and it has substantial ramifications for the case against Nigeria.

### C. Ways the UNGA's recent recognition of the right to health and sustainable environment can impact the decision in *SERAC v Nigeria*

The UNGA's recent recognition of the right to health and sustainable environment is a significant step towards ensuring that individuals and communities have access to the necessary resources to maintain their physical, mental, and social well-being while also promoting environmental protection. In the context of the Social and Economic Rights Action Center and the Center for Economic and Social Rights *v.* Nigeria case, the UNGA's recognition of these rights can improve the decision against Nigeria at the African Commission.

The UNGA's recognition of the right to health and sustainable environment can provide a legal framework for the African Commission to consider when making decisions related to the protection of these rights in the future. The notion that states have a responsibility to stop environmental deterioration and preserve the health of impacted communities is further strengthened by the UNGA's acknowledgement of these rights. According to Articles 12 and 24 of the African Charter on Human and Peoples' Rights, the Ogoni people's rights to health and a generally adequate environment were violated by the Nigerian government's refusal to stop pollution and ecological deterioration.

It is safe to conclude that the UNGA's recent resolution provides a framework for member states to implement and promote the principles and obligations of ESCR. Furthermore, the following are a number of ways having a universally recognized right to the environment supports and facilitates the African Commission's promotion of ESCR.

Firstly, the recognition of the right to a clean, safe, and healthy environment as a human right by the international community provides a legal basis for the African Commission to promote these rights. Secondly, the recognition of the right to a healthy environment as a human right reinforces the importance of this right in the global human rights discourse. Thirdly, the recognition of the right to a healthy environment as a human right also facilitates cooperation and collaboration between the African Commission and other actors, including other international and regional human rights bodies, environmental organisations, and development partners. This collaboration can help to leverage resources, expertise, and influence to advance the promotion and protection of the right to a healthy environment in Africa.

Overall, the UNGA's recognition of the right to health and a sustainable environment is a step towards promoting human rights and environmental protection. The decision against Nigeria at the African Commission highlights the need for states to take proactive measures to prevent environmental harm and protect the health of affected communities. The recognition of these rights by the UNGA provides a legal framework for the African Commission to consider when making decisions related to the protection of these rights in the future.

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#### **D. Implications for the protection of the right to environment in other countries**

The recognition of the right to a healthy and sustainable environment has significant implications for the protection of the environment and human rights in other countries. It provides a legal basis for individuals and communities to demand the protection of their environment as a fundamental human right, and for states to take proactive measures to prevent environmental harm and promote sustainable

development.

In light of the interdependence between environmental, social, and economic elements, and the acknowledgement of the right to a healthy and sustainable environment, states must adopt a more thorough and integrated approach to environmental protection. This means that in making environmental policies and decisions, consideration must be given to the effects on human health, development, and well-being in addition to the effects on the environment.

Furthermore, the recognition of the right to a healthy and sustainable environment can serve as a catalyst for international cooperation and collaboration to address global environmental challenges. It emphasises the shared responsibility of all states to protect the environment and ensure sustainable development, and the need for cooperation and solidarity in achieving this goal.

All things considered, the affirmation of the right to a safe and sustainable environment offers a potent weapon for advancing environmental preservation, human rights, and sustainable development, both in Nigeria and other nations across the world.

## 6. Conclusion

A long list of human rights abuses, including transgressions of the right to housing, the right to family, the right to dispose of property, the right to a clean environment, and the right to health, were alleged in the case against Nigeria. These violations occurred due to the state's disdain for the health and welfare of the impacted communities and its failure to stop environmental degradation brought on by oil firms in Ogoniland.

The Nigerian government must take immediate and effective measures to protect the right to the environment of its citizens. This includes ceasing attacks on the Ogoni people, investigating and prosecuting those responsible for attacks, providing compensation to victims, preparing environmental and social impact assessments in the future, and providing information on health and environmental risks. The government must also ensure that local communities are involved in decisions that affect them and that they are adequately compensated for any damages suffered.

The necessity of respecting the principles of ESCR's progressive realisation, the state's responsibility to respect and defend human rights, and the two concepts regarding international environmental law in defending the right to the environment are all brought home by this case. The UN General Assembly's recent affirmation of the right to a healthy and sustainable environment strengthens the case against Nigeria and urges other nations to make the defence of this basic human right a priority. States must take the appropriate steps to safeguard individuals' rights to the environment and prevent environmental deterioration and its detrimental effects on their health and well-being.





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