

SETTLEMENT OF INTERNATIONAL ENVIRONMENTAL LAW DISPUTES: AN APPRAISAL

By

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Abstract

In any human relationship touching on substantial and positive actions of promises, duties, obligations, rights, infringements and so on, disputes are prone to occur at one stage or the other. The need for justice and equity in such relationships that are substantially bound by law and other legal documents demands that disputes which are both humanly and obviously envisaged are settled one way or the other in order to fastrack and make way for further positive engagements between parties. These parties could be states or private individuals in their natural and legal capacities. Thus, a settlement profile would be either domestic or international in nature. Therefore, in environmental relationships or actions of international standard - breaches and infringements leading to disputes are duly settled to proffer remediations and institute discontinuation of the offending action. To properly capture the aim and objectives of this seminar paper, it would critically initially examine and analyse ways and means including processes of settlement of international environmental law disputes for cordial relationships amongst states. This study adopts the doctrinal research methodology, in which both primary and secondary sources were extensively consulted. In the end, far-reaching findings were also made, in order to recommend further studies in the field of settlement of international law disputes. The author suggests elaborate recommendations, that would fastrack settlements of international environmental law disputes to further engender amicable relationships between disputing state parties. The paper also provided insights about the impacts of political corruption on environmental dispute and other environmental matters. The analyses were clearly followed by a compelling conclusion and some recommendations.

Keywords: *Environmental disputes, Alternative Dispute Resolution, and Political Corruption*

1.0 Introduction

In pursuit of environmental justice, ecological and climate equity, settlement of disputes under environmental law has become rife in recent times. This concept of environmental justice and equity has its roots back in time to the 1970s in the US, where it started in the form of environmental legal activism to give justice to the Blacks whose neighbourhoods and premises were desecrated by their white counterparts as racial backlash. Environmental justice is not just a movement or a theory.¹ The adoption of environmental justice by a broader coalition of adherents has seen environmental justice ideas expanded, argued and is influencing law makers. The term environmental justice is filled with emotion. It is a metaphor.² In the 1980s the discourse was filled and understood equally by academics and some of the US disadvantaged communities. Since then, environmental justice has been shared³ by

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¹ Brad Jessup and Kim Rubenstein, 'Environmental Discourses in Public and International Law' (Cambridge University Press, 2012) 53.

² *Ibid.*

³ Ryan Holyfield, Defining Environmental Justice and Environmental Racism, [2001] 22, *Urban Geography*, 78.

mixed groups and movements often with different and sometimes competing agenda and values, but a common way of apprehending the world⁴ and framing environmental problems.⁵ Environmental justice is now concerned with combating environmental colonialism, speaking up on behalf of species and through the law, investing citizens with administrative rights and protecting the vulnerable from environmental despoliation. According to these different groups, environmental justice is concerned with fairness, equality and egalitarianism.⁶ From its late evolution in the US, the concept of environmental justice being a legal practice by a civilised nation, has found a foothold in the settlement of international environmental law disputes.

Disputes and conflicts are an integral part of life and occur in various dimensions.⁷ Some of the disputes may arise locally but usually have national, regional and international dimensions at one point or the other.⁸ Livelihood and resources, including the process of their exploitation most times lead to the spreading of environmental hazards across transboundary regions within other states. *The Trail Smelter case*⁹ is a *locus classicus* case often used to portray the transboundary nature of environmental pollution and approach to resolving the dispute arising from it.

This case overruled the No Harm doctrine, stating that a state owes its neighbours a duty of care in carrying out activities that are likely to have adverse effects on the environment and cause harm to another state.¹⁰ The No Harm rule or doctrine following the *Trail Smelter case*, was included in the 1972 Stockholm Declarations, wherein, principle 21 stipulates that states have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction.¹¹ Environment justice and equity are clearly shown as the basis of settlement of international environmental disputes. Issues related therewith would be discussed under conceptual framework as captured in the keywords.

2.0 Conceptual Framework

To further enhance the line of discussion of this paper, this part of the study would attempt to throw light on the keywords of the topic: Settlement of international environmental law disputes.

2.1.1 Settlement

The synonym of settlement in this context is the resolution of dispute. It is simply the act of resolving a dispute between parties. It also means an agreement ending a dispute or lawsuit.¹² That is the parties to the dispute reach an agreement which settles their dispute. It is called settlement agreement, in this sense mostly through compromise and settlement. It is also described as an official agreement intended

⁴ John Dryzek, *The Politics of the Earth: Environmental Discourses* (1st edn, Oxford University Press, 1997).

⁵ Holyfield, (n3).

⁶ *Ibid*.

⁷ Amari Omaka, *Nigerian Conservation Law and International Environmental Treaties* (2 edn., Princeton and Associates Publishing).

⁸ *Ibid*.

⁹ Trail Smelter Case (United States v Canada) 1941.

¹⁰ *Ibid*; Melford Itari and Okemdi Nnubia, 'Protecting Human Environment through International Laws: A legal Perspective', [2018] (5), *African Journal of International Energy and Environmental Law*, 67.

¹² Brgan Garner Black's Law Dictionary (9th edn., West Publishing Coy 2009) 1496.

to resolve a dispute. An agreement to end a disagreement or dispute. It could be court-ordered or an out-of-court settlement.¹³

2.1.2 International Environmental Law

International environmental law encompasses the legal norms and processes that address transboundary regional or global environmental issues.¹⁴ International law, on the other hand, is the legal system governing the relationship between nations; more modernly, the law of international relations, embracing not only nations but also such participants as international organisations and individuals such as those who invoke human rights or commit war crimes. It is also termed public international law, interstate law or law between states.¹⁵

It is further defined as a body of rules established by custom or treaty and recognised by nations as binding in their relations with one another.¹⁶ Environmental law is a collective term encompassing aspects of the law that protect the environment. A related but distinct set of regulatory regimes, now strongly influenced by environmental legal principles focused on the management of specific natural resources such as forests, minerals or fisheries.¹⁷

2.1.3 Dispute

Dispute simply means a conflict or controversy especially one that has given rise to a particular lawsuit.¹⁸ Every dispute whether at domestic, national or international level requires to be resolved or settled amicably so that cordial, productive relationships and positive engagements between parties can be resumed. It is very remarkable to note that times or periods wasted in protracted disputation is precious productive time, lost to unnecessary wrangles. The case of *Ukraine v. Russia* which is about 10 months old readily comes to mind. However, the speed with which disputes are resolved or settled obviously points to the efficacy of the mechanisms put in place for early and timely resolution thereof. Therefore, the scope and efficacy of mechanisms for settlement of international environmental law disputes is a necessary requirement for effective international relationships between states.

3.1 Nature of Environmental Disputes Settlement or Resolution

Environmental Dispute Resolution (EDR) or ADR as it is commonly required is generally known as out-of-court settlement, alternative to litigation to resolve disputes between parties. Though EDR or ADR can be used with virtually any legal dispute, it is often used to resolve environmental disputes.¹⁹ Negotiation, mediation, arbitration, and adjudication are the principal methods for settling such disputes and they are supported by various international environmental instruments such as the United Nations Convention on the Law of the Sea (UNCLOS) 1982 and the United Nations Framework Convention on Climate Change (UNFCCC) 1992.

¹³ Collins English Dictionary, Settlement-Definition-and-Meaning
< <https://www.collinsdictionary.com>, accessed > 24 November, 2022.

¹⁴ Oxford Bibliographies, <https://www.oxfordbibliographies.com> > accessed 24 November, 2022.

¹⁵ Garner, (n 12) 892.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Garner (n12) 3.

¹⁹ Environmental Dispute Resolution < <https://www.encyclopedia.com> > accessed 24 November 2022.

3.1.1 Negotiation

Negotiation is the simplest and most often practised form of EDR. The parties do not enter the judicial system but rather settlements are reached in an informed setting and then reduced to written terms.²⁰ The main feature is that no third party may be required to negotiate on behalf of the parties in disputes. It is a consensual bargaining process in which parties attempt to reach an agreement on a disputed or potentially disputed matter. Negotiation usually involves complete autonomy for the parties involved without the intervention of third parties.²¹ It was said of negotiation that:

Negotiation, we may say, ought strictly to be viewed simply as a means to an end; it is the road the parties must travel to arrive at their goal of mutually satisfactory settlement. But like other means, negotiation is easily converted into an end in itself; it readily becomes a game played for its own sake and a game played with so little reserve by those taken up with it that they will sacrifice their own ultimate interests in order to win it.²²

Article 279 of the United Nations Convention on the Law of the Sea emphasizes the general obligation of states to settle their disputes concerning the interpretation or application of the Convention by peaceful means. This involves environmental disputes that touch on the sea and ocean. This obligation is in line with the principles of international law and encourages states to continue negotiations until they reach a solution. Article 280 of the UNCLOS then goes further to affirm that this obligation does not prevent the parties from choosing other peaceful means of dispute settlement of their own choice. Negotiations remain the first step and are encouraged because they are generally the least adversarial, least costly and can be more flexible and conducive to ongoing positive relations between the parties.

3.1.2 Mediation

Mediation is a nonbinding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution.²³ Further to mediation is, conciliation, also termed case evaluation; facilitated negotiation.²⁴ The distinction, however, between mediation and conciliation is further illustrated thus;

The distinction between mediation and conciliation is widely debated among those interested in ADR, arbitration and international diplomacy. Some suggest that conciliation is a nonbinding arbitration; whereas mediation is assisted negotiation. Others put it this way, conciliation involves a third party trying to bring together disputing parties to help them reconcile their differences, whereas mediation goes further by allowing the third party to suggest terms on which the dispute might be resolved. Still others reject these attempts

²⁰ *Ibid.*

²¹ Garner, (n12) 1136.

²² Lon L. Fuller, 'Anatomy of the Law' (1968) 128.

²³ *Ibid.*, 1071.

²⁴ *Ibid.*

at differentiation and contend that there is no consensus about what the two words means-that they are generally interchangeable. Though a distinction would be convenient, those who argue that usage indicates a broad synonym are most accurate.²⁵

Furthermore, meditation is often the most appropriate technique for environmental disputes because the parties often have no prior negotiation relationship and because there are often many technical and scientific uncertainties; the assistance of a qualified professional is helpful.²⁶

Mediation is also used with varying degrees of success in environmental policy-making determination of development choices, and the enforcement of environmental standards. Many states explicitly recognise mediation as the primary method for initially dealing with environmental disputes and mediation procedures are written into environmental policy. Mediation is not appropriate however with all environmental disputes because some environmental laws are designed to encourage a slower examination of issues that impact society.

3.2.3 Adjudication

Adjudication is the legal process of resolving a dispute. It is the process of judicially deciding a case.²⁷ That is resolving the dispute through judgment. It is slightly different from the other multi-door courthouse method of settlement of disputes earlier discussed. Sometimes, it is referred to as private judging. However, it is an ADR process in which the parties give their evidence and arguments to a neutral third party who then renders an objective, nonbinding decision. It is a voluntary procedure and private unless one party seeks judicial enforcement or a review after the decision is made.

The parties must agree on the adjudication and procedural rules for the process and each side is contractually bound for the length of the proceeding.²⁸ The advantage of adjudication is that an environmentally-trained third party renders an objective decision based on the presented facts and legal arguments. These parties set their own rules, so an adjudicator is not bound to the legal principles of any particular jurisdiction. Private organizations provide adjudication services for fees and they can be expensive.²⁹

3.2.4 Arbitration

Arbitration is a process whereby a private judge or arbitrator hears the arguments of the parties and renders a judgment. The process works much like a court except that the parties choose the arbitrator who is the judge. The arbitrator also has much more latitude in creating remedies which are fair to both parties.³⁰ Parties cannot be forced into arbitration unless the contract in question includes an arbitration clause or the parties consented to enter into arbitration after the dispute developed. Since arbitration is

²⁵ Fuller (n22).

²⁶ Environmental Dispute Resolution (n19) 5.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ Environmental Dispute Resolution (n 19).

a contractual remedy, the arbitrator can consider only those disputes and remedies which the parties agreed to submit to arbitration.³¹

Again, it is a method of dispute resolution which sometimes involves more than one neutral third party who is usually agreed to by the disputing parties and whose decision is binding,³² that is why it is in some cases referred to as binding arbitration.

3.2.5 Minitrial

This is a private, voluntary and informal form of dispute resolution in which each party's attorney presents an abbreviated or an abridged version of its case to the neutral third party and to the opponent's representatives who have settlement authority, the third party may render an advisory opinion on the anticipated outcome of the litigation.³³ It has been summed up as follows:

The idea behind minitrial is that the parties can resolve a dispute on their own more efficiently if litigant representatives with settling authority are educated about the strengths and weaknesses of each side, giving summary presentations of their best cases under the eye of jointly selected neutral advisor. After each case presented, the parties meet privately to negotiate an agreement. The minitrial is confidential and nonbinding, usually no transcript is made of proceedings. Minitrials have had some success in saving both time and money.³⁴

For emphasis, it is a private process in which the parties voluntarily reach a negotiated settlement. They present their cases in summary form before a Panel of designated representatives of each party, and it offers some nonbinding conclusions on the probable outcome of the case, were it to be litigated. The parties may then use the result to assist with negotiation and settlement.³⁵

3.2.6 Summary Jury Trial

A summary jury trial is similar to a minitrial except that the evidence is presented to a non-expert, impartial jury, rather than a panel chosen by the parties, which subsequently prepares nonbinding conclusions on each of the issues in dispute. Parties may then use the assessment of the jury's verdict to help with negotiation and settlement.³⁶ In some instances, a summary jury trial is described as a settlement technique in which parties argue before a mock jury, which then reaches a nonbinding verdict that would assist the parties in evaluating their positions. It is also termed non-binding summary jury trial.

Howbeit, these mechanisms are available for use under domestic, regional and international environmental law disputes. Settlements, precisely and generally termed Environmental Disputes

³¹ *Ibid.*

³² *Ibid*

³³ *Ibid*, 1086.

³⁴ Alfred C. Aman Jr. and William T., 'Administrative Law' (Zndedn., 2001) 291.

³⁵ Fuller (n22) 7.

³⁶ WR Luew and AM Raminex, Resolving Environment Disputes with ADR [1992] (8) *The Practical Real Lawyer*, 15-23; N Kubasee and G Silveran, 'Environmental Mediation', (1988) (26) 533-555.

Resolution, and akin to the more popular alternative dispute resolution. Indeed, they are very suitable as well as viable options for any type of environment-related disputes.

3.3 Environment-related Disputes

The environment is increasingly featuring as a factor in disagreements between countries in various international forums - and indeed, the number of available forums in which these disputes can be heard is itself increasing. This is a reflection, partly because of the steady expansions of international environmental obligations and partly, because of the growing reach and complexity of other international regimes, such as multilateral trading systems and partly because of the growing understanding - and evidence of the environmental implications of almost any economy or policy.

The existing system for dealing with such disputes remains, however, fragmented. This bears obvious danger: the risk of duplication of efforts and lack of coordination and the likelihood of countries shopping around for the forum in which they are most likely to be successful. The most recent case in the list of international environment-related disputes is the *EU v. Chile Swordfish*, disputes which saw the EU requesting the establishment of a WTO disputes panel while Chile initiated proceedings before the International Tribunal for the Law of Sea (ITLOS).

It is however remarkable to note generally that there are a host of human actions which are likely to lead to environmental disputes between countries. These may include:

- a. Control over transboundary and vital environmental resources such as fossil fuels and their exploratory effects across territorial borders.
- b. Transboundary gas emissions including effluent substances (liquid wastes that are discharged into a river, lake or other water bodies).
- c. Close border nuclear testing grounds with resultant vibrations, radiations, radioactive materials and nuclear fallouts, shocks, blinding flashes.
- d. Exporting environmentally harmful and hazardous materials, products, substances, etc.
- e. Dumping of wastes across territorial boundaries such as the Koko toxic wastes dumping by an Italian vessel in Koko, Nigeria, in 1988.³⁷
- f. Trading in endangered species across borders, poaching, hunting.
- h. Oil and other harmful chemical substances pollutions of a territorial sea or air.
- i. Other matters which may generally lead to environmental disputes between states.

There seems to be a general agreement that disputes depend on the action, not necessarily the violence of the parties the aftermath of the action in question. No doubt, environment-related disputes will always occur between countries through their respective actions. They however have succour in numerous international institutions to ventilate and redress their conflicts rather than resorting to war. Approaching these international environmental institutions may be their last option to resolve the dispute where efforts to assuage and resolve such disputes through EDR process fail.

³⁷ S F Liu, 'The Koko Incident: Developing International Norms for the Transboundary Movement of Hazardous Waste' [1992] (8)(1) *Journal of Natural Resources & Environmental Law*;121-154.

3.3 International Environmental Institutions for the Settlement of Environmental Disputes

Environmental disputes are generally defined as disputes resulting in tensions, disagreements, altercations, debates, competitions, contests, conflicts, or fights over some elements of the natural environment. Dispute settlement institutions and systems exist in so many forms, while some are solely established to handle environmental disputes, others have extensive jurisdiction for all subject matters.³⁸ Some of these environmental dispute settlement institutions include the following:

3.3.1 International Court of Justice

The International Court of Justice (ICJ) is the principal judicial organ of the UN established in 1945, along with the UN itself, as a continuation of the hitherto Permanent Court of International Justice (PCIJ).³⁹ It is a standing court and Article 36(1) of its Statute provides that its jurisdiction comprises all cases which the parties refer to it and all matters especially provided for, in the Charter of the UN or in any Treaties and Conventions in force.

All UN member states undertake upon joining, to comply with the decisions of the ICJ in cases which they are a party and brought to the Court voluntarily. Article 94(2) provides that if a party fails to carry out the requirements imposed on it by the Court, the other party is entitled to refer the matter to the Security Council, which may, if it deems fit, make recommendations or decide upon measures to be taken to give effect to the judgment. However, ultimate enforcement is a political rather than legal matter - hardly surprising, given that the ICJ decision deals with relations between states. However, given its legal standing, ICJ decisions have very powerful moral and political impact, partly because of the high standing of its judges and its long experiences.

The ICJ has a universal jurisdiction but a state is only subject to its jurisdiction if the said state is subject to a multilateral agreement giving rise to the disputes. The ICJ has dealt with a few environment-related disputes. The case of *New Zealand v. France*,⁴⁰ regarding the legality of underground nuclear testing brought by New Zealand against France. The Court held that its decision to halt further underground nuclear testing was without prejudice to the obligations of the states, but to respect and protect the natural environment - a statement based partly on the 1972 Stockholm Declaration and 1992 Rio Declaration.⁴¹

Another case is *Hungary v Slovakia*⁴² the Gabčíkovo Nagymaros Project involving the construction of a barrage across River Danube by Slovakia with significant damage to local biodiversity. The Court ruled in favour of the doctrine of Ecological necessity and accepted concerns for the natural environment an essential interest, and it also involved the concept of sustainable development.

3.3.2 European Court of Justice

The European Court of Justice (ECJ) is a regional Court that has had a remarkable showing on the development of environmental law in the EU. It has resolved disputes over interpretations of EU treaties

³⁸ R Bilder, 'The Settlement of Disputes in the Field of the International Law of the Environment' [1975] (1) *Hague Academy of International Law*; 140-239.

³⁹ E Hambro, *The Jurisdiction of the International Court of Justice* (Cambridge University Press 1948)

⁴⁰ (1995) ICJ Report.

⁴¹ *Ibid.*

⁴² [1997] ICJ Rep 7.

and obligations flowing from them. As of 1985, it recognised that environmental protection was an essential objective of the European community, and about 10 years later, it has entertained over 150 environmental cases. In most cases, the Court had given more considerations to environmental objectives over economic and trade objectives and has shown willingness to act more expediently over environmental issues.⁴³

On enforcement procedures, fines are now applied to member states for failing to comply with ECJ judgments within a reasonable time - at least within 2-3 years. Examples include the Greece dumping case in a village near Crete: *UK v. Germany* relating to Environmental Impact Assessment. The fines imposed by the ECJ are relatively high and calculated based on the GDP of the state, and applied on daily basis. This has produced a substantial deterrence effect.

3.3.3 Human Rights Court:

The connection between human rights and environmental protection was first formally recognised at the international level in 1968 when the UNGA noted that the relationship between the quality of the human environment and enjoyment of basic rights is directly proportional. Subsequent declarations such as:

- The 1972 Stockholm Declaration on Human Environment;
- The 1981 African Charter of Human and People Rights;
- The 1989 Protocol to the American Convention on Human Rights; all reiterated the importance of the quality of the environment to the enjoyment of human rights.

The Inter-American Commission of Human Rights (IACHR) has dealt with several environment-related cases. For example, in the *Yanomani* case, the Commission concluded that the ecological destruction of Yanomani lands in Brazil violated the right to life, health and food as provided for, in the American Declaration of the Rights and Duties of Man.

3.3.4 The World Trade Organisation (WTO):

The WTO came into existence alongside the World Bank and the IMF, as the 3rd leg of the Bretton Woods institution, (the tripod) in 1946. Let it be known that while the WTO is established to ensure the removal of all trade barriers as well as non-discrimination in global trading arrangements, it also ensures that multilateral trading systems treat trade-related environmental measures appropriately.

3.3.5 International Tribunal for the Law of the Sea (ITLOS)

The Provisions of UNCLOS III were agreed upon in 1982 after a protracted negotiation, and came into force 10 years later. The Tribunal has decided a host of cases bordering on environmental disputes, including matters of poaching, illegal, unregulated and unreported fishing - the case of the *EU v. Chile*; *Australia v. New Zealand*, and others stands out.

⁴³ F Jacobs, 'The Role of the European Court of Justice in the Protection of the Environment' [2006] (18)(2) *Journal of Environmental Law*; 185-205.

3.3.6 Multilateral Environmental Agreements (MEAs)

Almost all the MEAs have provisions for dispute settlement; an example is the Vienna Convention - the Parent Convention of the Montreal Protocol, provided for a range of EDR mechanisms, referral to ICJ, etc.

3.3.7 Permanent Court of Arbitration (PCA) 1899

For peaceful means of conciliation and mediation, consisting of 265 jurists whose main duty is to settle disputes of all shades among 85 member nations, private parties and NGOs, a working group was established in 1996 to work on the preparation of draft environmental procedure rules for the PCA.⁴⁴

From the foregoing accounts of multilateral institutional regimes for the settlement of international environmental disputes, it would be noted that there has been a remarkable improvement thus far. Since institutional frameworks are naturally a creation of legal regimes and documentation, legal treaties for international environmental settlement of disputes will be discussed in the next segment of this paper, at least in general terms.

3.4 International Legal Treaties for the Settlement of International Environmental Disputes

There are a good number of legal treaties and declarations on the environment; whose provisions provide for dispute settlement including other sundry environmental matters. A couple of these will be discussed here.

3.4.1. 1972 Stockholm Declaration

The Stockholm Declaration was adopted by the UN Conference on the Human Environment in Stockholm, Sweden on 16 June 1972. The Declaration provided for 7 major Articles 26 Principles and 7 Guidelines. All the Articles are to the effect that man should use the environment beneficially for all generations, which by implication, requires that environmental disputes should be settled timely and amicably.

3.4.2. 1992 Rio Declaration

The UN Conference on Environment and Development Rio De Janeiro, Brazil held 3-14 June 1992, termed the Earth Summit on account of its massive attendance by representatives, and NGOs from 179 countries. It is a major regulatory framework of agreements on the environment for member states.

3.4.3. 1987 Montreal Protocol on Substances that Deplete the Ozone Layer

Concluded in Montreal, Canada on 16 September 1987. Its parent document is the Vienna Convent. Its main objective is to take measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer.⁴⁵ And to control worldwide emissions of certain substances that can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result from human activities.⁴⁶

⁴⁴ Hambro (n 39).

⁴⁵ J A Mintz, 'Keeping Pandora's Box Shut: A Critical Assessment of the Montreal Protocol on Substances That Deplete the Ozone Layer' [1989] (20)(3) *The University of Miami Inter-American Law Review*;565-578.

⁴⁶ *Ibid.*

3.4.4. The Vienna Convention for the Protection of the Ozone Layer

The Convention aimed to promote cooperation among nations by exchanging information on the effects of human activities on the Ozone Layer, its depletion and impacts thereof on human health and the environment.⁴⁷ The Convention was a global response to the perceived danger and threat constituted by ozone layer depletion in 1985. Today, the Vienna Convention is still making progress. The countries involved meet once every 3 years to make decisions on important issues on research, systematic observations, finance and administrative matters.

3.4.5. 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Divided into 2 parts: Enforcement management components, as well as addressing disputes and claims, aimed at protecting endangered species from illegal trading and harming their natural environmental habitats.

3.4.6. 1974 Convention on Long-Range Transboundary Air Pollution (LRTBAP).

It is substantially based on the Montreal Protocol. It has a strong, experienced and independent analytical body to analyse a reported transboundary emission and take appropriate advisory and administrative steps, as in the case of *Slovenia v. Norway*.

3.4.7. Climate Regimes: Namely

- The UNFCCC 1992,
- The Kyoto Protocol 1987
- The Various COPs on Climate Change which holds yearly.

To say the least, the legal instruments on the environment are quite enormous, and more are still emerging as a result of the dangers posed by Climate Change vis-a-vis human activities and the environment. Also arising from the Environment and Climate Change resolutions, please note the following agreement and settlement phrases emission reduction, - carbon trade, carbon credit, cap and trade, environment economics, environment policy and politics, carbon tax, emission reduction purchase agreement (ERPA), REDD+, global shield, green wall, adaptation fund, etc. On need to know as part of trending concrete environmental and climatic efforts for better environment and climate for all.

4.0 Impacts of Political Corruption on the Settlement of Environmental Disputes

Political corruption has the potential to fuel environmental disputes. This can happen when countries or entities exploit natural resources irresponsibly for immediate gains, disrespecting international norms and agreements. An example is the conflict over water usage in transboundary river basins where upriver developments and resource extractions by corrupt regimes can lead to downstream impacts that provoke disputes with neighbouring countries that rely on the same water sources.⁴⁸

⁴⁷ Vienna Convention for the Protection of the Ozone Layer 1985, preamble.

⁴⁸ M Nincic and M Weiss, *The Future of Transboundary Water Conflicts* (Oxford University Press 2016); A Amini, 'Transboundary Water Resources Conflict Analysis Using Graph Model for Conflict Resolution: A Case Study—Harirud River' [2021] *Discrete Dynamics in Nature and Society*;

Political corruption also undermines the effectiveness and equity of international environmental dispute settlement mechanisms. When corrupt practices permeate the governance structures of a state, they can skew the state's priorities, policies and positions in international environmental negotiations. The result is often a setback in the progress of reaching agreements that genuinely reflect the urgency and seriousness of environmental issues.⁴⁹ Instead, decisions may favour the personal gains of corrupt officials or the narrow interests of illicitly influential corporations and entities, sacrificing the larger environmental good for short-term and personal benefits.

The process of resolving environmental disputes can be hindered by political corruption. Corrupt officials might manipulate or intervene in legal proceedings to protect their interests, resulting in biased outcomes that disregard scientific evidence or the international community's broader environmental concerns. The credibility of dispute resolution systems becomes eroded when corruption allows certain actors to escape liability or when it alters the composition of the regulatory bodies to favour less qualified but more compliant representatives. Trust in these systems is essential for their effective operation, and once that trust is compromised, the resolution process can become a farce, crippling its legitimacy and the willingness of stakeholders to engage in good faith.

The impact of political corruption on the settlement of environmental disputes is also exemplified in cases where corrupt officials have engaged in the misappropriation of funds meant for environmental remediation, thereby perpetuating ecological damage. For instance, in the Niger Delta, despite international attention and investment in cleaning up oil spills, corrupt practices have reportedly led to the misallocation of resources, slowing the response and mitigation efforts. Hydrocarbon Pollution Remediation Project (HYPREP) is an example of such environmental project which was launched to address the environmental disputes and issues in Ogoniland. However, reports have highlighted instances of corruption, mismanagement and misappropriation of funds within the project.⁵⁰

International investment in sustainability projects also suffers in the face of political corruption. The Green Climate Fund (GCF), designed to assist developing countries in adaptation and mitigation practices to counter climate change, can be misused if corrupted officials divert these funds for personal gain instead of ensuring the funds are invested in legitimate and environmental projects. Such corruption undermines the trust and willingness of local, regional and international entities to invest in environmental initiatives, thereby reducing global efforts towards environmental sustainability.

5.0 Conclusion

By all means, the environment; mankind's home, needs to be protected. To this end, potent settlement strategies have been put in place to achieve, economic development, stability, sustainable development and indeed peaceful relations between states and corporations. Alternative dispute resolution mechanism is the only prospect of a quick fix to peaceful relations. Through ADR, disputes are

⁴⁹ L Tacconi and D. A. Williams, 'Corruption and Anti-Corruption in Environmental and Resource Management' [2020] (45) *Annual Review of Environment and Resources*; 305-329.

⁵⁰ D Iheamnachor, 'MOSOP alleges corruption in HYPREP, demands overhauling of project' <<https://www.vanguardngr.com/2023/08/mosop-alleges-corruption-in-hyprep-demands-overhauling-of-project/>> accessed 10 January 2024.

resolved amicably and the compliance level of disputes resolved is higher than those resolved on the basis of contentious methods of dispute resolution.

6.0 Recommendations

This paper makes recommendations for the way forward to effective dispute settlement.

1. The UN should mandate states and other organizations to settle disputes through ADR. This will help improve relations between them and eliminate war, acrimony and militancy.
2. At the state level, states should initiate enlightenment programmes fashioned towards educating citizens about the benefits of settling disputes through alternative means, instead of litigation. At the international level, an international environmental court should be established under the oversight of the United Nations to resolve disputes through ADR mechanism.