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Litigation against MNCs: A Medium for Accountability for Human Rights Violations in the Mining Industry

Oluwatosin Busayo Igbayiloye*
Oluwabunmi Lucy Niyi-Gafar**

Abstract
Lawsuits against multinational corporations (MNCs) are one of the means to hold companies accountable for violations of human rights in sectors like mining, where the consequences on the environment and local communities are often severe. Notwithstanding the massive financial power of large multinational firms, lawsuits offer a means of seeking justice, righting wrongs, and defending human rights standards. Numerous mining operations take place in countries with weak regulatory frameworks or where the government may be complicit in human rights abuses such as forced displacement, child labour, and environmental damage. In some cases, litigation may be heard under the jurisdiction of the parent company's native country's courts while it may be difficult to institute legal action against companies that committed such wrongful acts. This could compel the multinational corporation to take responsibility for its foreign operations. Therefore, this article discusses litigation against MNCs as an important tool for corporate accountability in the mining industry and instances MNCs have been accused of violating human rights in the US, UK, and Nigeria. The analysis takes into account the achievements as well as its shortcomings in addressing the violations. This research also examined several barriers to lawsuits against corporations. They have the power to keep victims from getting justice for alleged wrongdoing and human rights abuses by businesses. It states strategies to strengthening and enhancing the effectiveness of litigation against MNCs and businesses.

Keywords: Human Rights, Litigation, Multinational Corporations (MNCs), Accountability

1. Introduction

Businesses like the mining companies violate human rights in the process of exploration and development of mineral resources. These mining operations can violate the right to land and property, right to food and right to culture through displacement of local communities and loss of farmlands. Mining companies violate the right of access to information and right to participation of communities in instances where they are denied access to necessary information of mining projects or are not involved in the decision-making process concerning the development of mineral resources on their land. Environmental impacts caused by mining activities such as air and water pollution as a result of toxic release, pollute the air and water sources used for domestic purposes and aquatic life in host communities. These impacts threaten lives and expose people to harm, resulting in poor health, and loss of lives and livelihood. They violate rights to life, health, water, including safe and healthy environment. These human rights violations can lead to protest by host communities against companies which may lead to torture, cruel and inhumane treatment by company's personnel.

Businesses need to be held accountable for the problems they cause in the mining industry particularly human rights violations. Aside from human rights international law and domestic laws, litigation against these companies is a way to hold them accountable for the human rights violations they cause during their operations. This is quite evident in the oil industry in Nigeria but we are yet to have such in the mining industry. There have been cases in domestic and foreign courts. Cases against MNCs are also established on the ground of torts particularly negligence for claims of compensation to victims, reinstating them to their previous positions and to prevent the wrongful act in future.[1] Litigation in tort

***Oluwatosin Busayo Igbayiloye,** Lecturer, Department of Jurisprudence and International Law, Faculty of Law, University of Ilorin Nigeria, Email- igbayiloye.ob@unilorin.edu.ng **ORCID**: https://orcid.org/0000-0001-6817-5331 Mobile Number - 08038076514
****Oluwabunmi Lucy Niyi-Gafar,** Lecturer, Department of Jurisprudence and International Law, Faculty of Law, University of Ilorin Nigeria Email- niyigafar.ol@unilorin.edu.ng **ORCID**: https://orcid.org/0009-0003-5148-5845

can serve as a means of holding MNCs accountable for violation of human rights.[2] The usefulness of litigation as a corporate accountability tool in the mining sector is examined in this article. It explores key cases that have influenced the fight for justice for impacted communities, the extent of human rights abuses connected to mining operations, and the laws governing corporate culpability. This article considers instances in the US, UK, and Nigeria, where cases of human rights violations were instituted against MNCs. Certain impediments to litigation against companies were also considered in this paper. They can prevent victims from obtaining justice for alleged wrongful acts and human rights violations by companies. The study examines the advantages and disadvantages of using the legal system to handle these infractions. A stronger legal and regulatory framework is required to guarantee long-term and fair solutions for impacted communities, even as litigation is essential for holding MNCs responsible, this paper concludes.

2. Litigation of Cases in Foreign Countries

In order to obtain justice for victims of human rights abuses in the mining sector, litigation has been essential. Class action cases, assertions of extraterritorial jurisdiction, and reliance on corporate liability theories are only a few of the legal tactics used to hold multinational corporations (MNCs) responsible. The potential and constraints of litigation as a tool for accountability are demonstrated by a number of seminal cases:

There are numerous national and international legal tools available to combat corporate abuses of human rights in the mining sector. The International Labour Organisation (ILO) agreements, the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises 1976, revised in 2000 and the updated guidelines adopted in 2011, the United Nations Global Compact 2000, and the United Nations Guiding Principles on Business and Human Rights (the 'Protect, Respect and Remedy' Framework) are some of the most important international frameworks. Although they frequently lack effective enforcement tools, these instruments establish corporate responsibility for human rights. A number of nations have passed legislation to hold multinational corporations (MNCs) accountable for human rights abuses committed elsewhere. Victims can pursue justice against companies with headquarters in the United States, the United Kingdom, and France through the Alien Tort Statute (ATS), the Modern Slavery Act, and the Duty of Vigilance Law. An Ombudsperson for Responsible Enterprise has also been appointed in Canada to look into claims made against Canadian companies doing business abroad. Significant obstacles still exist in spite of these legal frameworks, such as jurisdictional restrictions, corporate legal defences, and issues enforcing judgements.

Under the Torture Victim Protection Act or the Alien Tort Claims Act, litigants in the US have been successful in proving their claims against multinational corporations that violate human rights. As a result, MNCs are the target of numerous human rights cases in US courts. United States Federal Courts have jurisdiction over "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States," according to the immigrant Tort Claims Act (ACTA) of 1789. In contrast, the Torture Victims Prevention Act (TVPA), which was passed in March 1992, gives US citizens and foreign nationals the ability to file a lawsuit for extrajudicial murders or torture. Its purpose was to fortify and broaden the ACTA.

ACTA is described to be 'unique' as it provides an alien with a remedy for a breach of the law of nations.[3] It allows aliens to bring actions for torts in US courts regardless of where the act occurred.[4] In order for a federal court to exercise jurisdiction over a claim, a defendant must be subject to the personal jurisdiction of a US court and the suit must be for a tort which is a violation of international law. The

[1] R Meeran 'Tort litigation against multinational corporations for violation of human rights: An overview of the position outside The United States' *City University of Hong Kong Law Review* (2011) (3) (1*)* 4.
[2] Ibid.
[3] U Kohl 'Corporate human rights accountability: The objections of western governments to the alien tort statute' (2014) 63(3) *The International and Comparative Law Quarterly* 669. ATS has been interpreted as referring to customary international law.
[4] Developments in the law: International Criminal Law' (2001)114 *Harvard Law Review* 2033.

case of *Filartiga v Pena-Irala*[5] gained prominence as the first successful suit brought under the ATCA in the United States by victims of international human rights violation.[6] From the 1980s, ATCA was used as the basis of suits against individuals for violations of international human rights law.[7] In 1980, the Court of Appeal for the Second Circuit in *Filartiga v Pena-Irala* held that the ATCA could be the basis to sue a Paraguayan police officer for acts of torture he had committed in Paraguay.[8] The prohibition of torture under international law was held to be recognised in US courts irrespective of the victim or perpetrator's nationality. The court held that;

> *Deliberate torture perpetrated under colour of official authority violates universally accepted norms of the international law of human rights, regardless of the nationality of the parties. Thus, whenever an alleged torturer is found and served with process by an alien within our borders, §1350 provides federal jurisdiction.*[9]

The Court reasoned that the law of nations is in constant evolution and should be interpreted, as it currently exists.[10] Subsequently, actions of human rights violations were brought against MNCs. In 1997, in Doe v Unocal Corp,[11] the plaintiff sued Unocal for alleged complicity in human rights violations committed by the Myanmar government and military, which included forced labour, murder, torture and rape during the construction of the Yadana gas pipeline in Myanmar. It was held that ACTA actions can be brought against private corporations. Since the decision in 1997, human rights violation cases have been instituted against several corporations like Shell, Exxon-Mobil, Pfizer, and Coca-Cola for abuse of human rights committed abroad.[12]

However, the decision of the Court of Appeal for the Second Circuit in *Esther Kiobel v Royal Dutch Petroleum Co* posed a challenge to the ability of ACTA to redress human rights abuses by corporations. [13] In the case, the plaintiff claimed that Dutch, British, and Nigerian corporations that carried out exploration and production of oil aided and abetted the Nigerian government to commit human rights abuses which violate the law of nations. It was held by majority that corporations cannot be sued under ACTA since imposing liability on companies for violation of customary international law is yet to be acceptable globally and that no corporation is yet to be subject to any liability under customary international law of human rights.[14] One of the judges though agreed with the majority but reasoned that the decision offers devious businesses the opportunity to carry out immoral acts.[15] Notwithstanding this decision, litigation under ACTA brought the matter of corporate human rights accountability to the limelight and led to several settlement of cases out of court.[16]

In other jurisdictions like the United Kingdom, English courts can exercise jurisdiction over extraterritorial acts of English companies and foreign corporations that carry on business 'to a definite and, to some reasonable extent, permanent place' within jurisdiction.[17] The foreign corporation's location must be in England where it carries on business.[18] In addition, the court can exercise jurisdiction

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[5] *Filartiga v Pena-Irala* (1980) 630 F 2d 876.
[6] Developments in the law: International Criminal Law' (n 8 above) 2033.
[7] Encyclopedia Britannica 'Alien Tort Claims Act' <https://www.britannica.com/topic/Alien-Tort-Claims-Act> accessed 23 February 2025.
[8] (n 5) The Second Circuit Court of Appeal reversed the decision of the district court, holding that 'an act of torture committed by a state official against one held in detention violates established norms of the international law of human rights, and hence the law of nations' 878.
[9] (n 5) 878. The Court defined the "law of nations" (also known as customary international law) as the customs and usages of nations, the writings of eminent jurists and judicial decisions that recognise and enforce international law 880.
[10] (n 5) 881.
[11] *Doe I v Unocal Corp* 963 F Supp 880 (1997).
[12] S Joseph, Corporations and Transnational Human rights Litigation (2004) 22.
[13] *Esther Kiobel v Royal Dutch Petroleum* Co (2010) 621 F 3d 111.
[14] Ibid, 111, 145 & 148.
[15] Ibid, 150.
[16] S Deva, 'Regulating Corporate Human Rights Violations: Humanising Business' (2012) 74.
[17] *Littauer Glove Corp v F W Millington* (1920) Ltd (1928) 44 TLR 746 (KB Div) 747, in *Adams v Cape Industries* (1990) Ch 433 (CA) 467; Joseph (n 12 above) 113.
[18] *Adams v Cape Industries* (n 17 above) 468.

over a foreign company where its agent or subsidiary is located within jurisdiction.[19] In England, there is no statue that is similar to the ACTA or the TVPA in the US.[20] However, civil claims on human rights may be brought under customary international law which is accepted as part of English common law.[21] English courts can exercise jurisdiction over torts committed abroad under the Private International Law Miscellaneous Provisions Act 1995 (the PILMPA). There are a couple of tort cases instituted against British transnational corporations[22] and like in the cases in the US, English cases focus on preliminary issues instead of merit of the complaint.[23] In *Connelly v R.T.Z,*[24] the plaintiffs who were former workers of Rossing Uranium Ltd., operating in Namibia and a subsidiary of R.T.Z, claimed that they suffered asbestos-related injuries caused by activities of its mine in South Africa. The defendant's application for dismissal of the case on the basis of forum non conveniens (FNC) was reviewed by several courts and later got rejected by the House of Lords. The court held that while Namibia could be a more appropriate venue for the claim, it would not be in the interest of justice for the Plaintiff to lodge his claim in Namibia. Furthermore, in *Lubbe v Cape Plc*,[25] a claim was instituted in an English court by over 3000 claimants against Cape Plc. All the claimants claimed damages for personal injuries and death in some cases suffered due to exposure to asbestos and related products during their employment or living in a contaminated area in South Africa. The claimants claimed that the act of failure of the defendant as the parent company to carry out proper working practices and safety precautions resulted in injuries and loss of lives. The House of Lords rejected the application of the defendants for a stay on the basis of FNC and stated that the case should be tried in England. The court stated that if these proceedings were stayed in favour of the more appropriate forum in South Africa, there is probability that the plaintiffs would be denied means of obtaining the professional representation and the expert evidence needed for these claims to be decided justly. This would amount to a denial of justice. In the special and unusual circumstances of these proceedings, lack of the means in South Africa to prosecute these claims to a conclusion provides a compelling ground, for refusing to stay the proceedings here.[26] The importance of justice is emphasised in determining the issues in these cases.

In a recent case, *Vedanta Resources PLC & another v Lungowe & others*,[27] compensation was sought for poor Zambian residents who suffered from negligence of escape of noxious substances from the operation of Nchanga Copper Mine in Zambia operated by Konkola Copper mines (KCM) in Chingola District of Zambia. The companies challenged the jurisdiction of the UK courts to hear the complaint for negligence and breach of statutory duty and declared Zambia was the proper forum and therefore, the case cannot be established against them in a UK court. The decisions of the lower court and Court of Appeal were that the claimants would not obtain substantial justice in the Zambian jurisdiction if Zambia is chosen as the proper place to determine the claims.[28] The supreme court dismissed the appeal of the companies on the basis of substantial justice[29] that Zambian courts could not be relied on to address claims against KCM and that there was a real risk that the claimants would not obtain "substantial justice" in Zambia.

These cases are indications that an action can be instituted in court against companies for their wrongful acts and violations of human rights.[30] The cases created awareness to the havoc caused by the operations of companies in host countries. Although, from these cases, some companies try to stop the courts from deciding the case, the courts still accepted to determine the cases to enable victims have access to and obtain justice. The courts also looked on the conditions of the victims in that they lacked resources to

[19] (n 17) 539-549, Joseph (n 12 above) 114.
[20] Joseph (n 12) 115.
[21] Ibid.
[22] Ibid.
[23] Ibid.
[24] *Connelly v RTZ Corporation Plc & others* (1998) AC 854.
[25] *Lubbe v Cape Plc* (2000) 4 All ER 268 (HL) 277.
[26] Ibid, 279.
[27] *Vedanta Resources PLC & another v Lungowe & others* (2019) UKSC 20.
[28] Ibid, para 20.
[29] Ibid, para 102.
[30] O Igbayiloye, 'A Human Rights-Based Approach to Mining of Solid Minerals in Nigeria' (LLD Dissertation Faculty of Law, University of Pretoria 2020).

pursue the action and may be denied the means of obtaining professional representation and the expert evidence needed for their claim which will result in denial of justice. Access to justice is a key principle of a human rights-based approach framework and courts should play their role to ensure that victims obtain justice.

3. Litigation against Companies in Nigeria

Nigerian courts have attempted to resolve issues pertaining to oil matters brought before them under domestic tort law, despite the fact that holding corporations liable may be challenging. A few of the lawsuits are based on strict responsibility, negligence, and nuisance. According to Frynas' research on oil litigation in Nigerian courts during the 1980s and 1990s, MNCs like Shell and Chevron were the target of several lawsuits. According to reports, Shell had over 500 ongoing complaints in Nigerian courts in 1998, with 70% of them involving oil spills and the remaining 30% involving other forms of damage from oil-related activities, contracts, employment, and taxes.[31] In the 1990s, some cases were won by local people in the areas where oil was produced. In *Shell v Farah*,[32] 4.6 million Naira - $210 000 was awarded as damages to the plaintiffs. One of the basis for oil-related court case is negligence. On that basis, the burden of proof is on the plaintiff. In *Seismograph Service v Mark*,[33] the plaintiff's claim was compensation for damage for the destruction of his fish nets by a seismic boat. The Plaintiff was unable to prove the negligent act of the company. On appeal, the Court of Appeal found that the plaintiff did not prove that the oil company breached the duty of care owed to him and the case was dismissed. The judge mentioned that 'the allegation that the vessel 'tore' through and carried the floaters away is not by itself suggestive of excessive speed or any amount of negligence'.[34] A plaintiff affected by oil activities in a negligence claim needs to prove that the defendant owes him a duty of care, that was breached and the breach of duty caused damage. However, the proof of negligence in such cases can be difficult as seen in *Seismograph Service v Mark*. In some circumstances, a case on the basis of negligence can be successful even though the plaintiff is unable to prove the breach of duty of care. This is on the basis of the principle known as *res ipsa loquitur* which means 'the fact speaks for themselves'. In *Mon v Shell-BP*,[35] compensation was claimed by the plaintiffs for damage caused by oil spill. The decision of the court is that,

> *Negligence on the part of defendants was pleaded, and there is no evidence of it. None in fact is needed, for they must naturally be held responsible for the results arising from an escape of oil which they should have kept under control.*[36]

The plaintiffs won the case and were awarded compensation. Hence, a plaintiff can succeed in oil spill cases if *res ipsa loquitur* can be invoked.[37] Aside from the torts of negligence and nuisance, a plaintiff may also rely on the rule of strict liability in *Rylands v Fletcher*,[38] which states that a defendant is liable for damages resulting from his actions even in the absence of negligence. The tort of nuisance is another basis for litigation in oil-related matters, where the plaintiff may sue for interference with the enjoyment of his or her land that may be caused by vibrations, flooding, fire, or noise.[39]

Furthermore, the decision in *Gbemre v Shell*[40] raises the possibility of litigation against MNCs in Nigeria on the basis of human rights provisions. The plaintiffs' claim was that oil activities by Shell such as gas flaring violated their rights to life and human dignity under sections 33(1) and 34(1) of the Nigerian constitution and articles 4, 16 and 24 of the African Charter. The plaintiffs claimed that the continuous act of gas flaring polluted the environment which exposed the community to health risks, death and

[31] JG Frynas 'Legal change in Africa: Evidence from oil-related litigation in Nigeria' (1999) 43(2) *Journal of African Law* 121.
[32](1995) 3 NWLR (Pt. 382) 148.
[33] (1993) 7 NWLR 203.
[34] Ibid, 212.
[35] (1970-1972) 1 RSLR 71.
[36] (1970-1972) 1 RSLR 71.
[37] Frynas (n 31) 125.
[38] *(1868) LR 3 HL 330*
[39] Ibid.
[40] *Mr Jonah Gbemre v Shell Petroleum Development Corporation of Nigeria Ltd & Others* FHC/B/CS/53/05, Federal High Court, Benin Judicial Division, 14 November 2005; OO Amao 'Corporate Social Responsibility, Multinational Corporations and the law in Nigeria: Controlling Multinationals in Host States' (2008)52(1) *Journal of African Law* 107

affected crop production. The court held that the constitutionally protected rights include rights to a clean, poison-free, pollution-free environment and that the actions of Shell in continuing to flare gas in the course of its oil exploration and production activities in the plaintiffs' community, violated their right to life and/or the dignity of the human person under the constitution and the African Charter. Even though there is no apparent justiciable right to a 'clean poison-free, pollution-free and healthy environment' under the Nigerian constitution, the court relied on a cumulative use of constitutional provisions with the provisions of the African Charter (especially article 24) to recognise and apply a fundamental right to a 'clean poison-free, pollution-free and healthy environment'.

The case's ruling established that Nigerian corporations were subject to human rights laws. Given the losses caused by mining activities, it is still possible that a number of lawsuits may arise from mining-related concerns, even though litigation in these areas has not yet grown as much as it has in oil-related instances. To guarantee that victims receive justice, Nigerian courts would need to play a significant role in increasing the number of mining-related cases that are brought before them for resolution.

A problem for the courts would be the absence of clauses in the national constitution and mining regulations that would bolster a victim's claim and court rulings. In order to support extraordinary court rulings and enable victims to receive justice, the government must enact the required legislation.[41] In *Social and Economic Rights Action Center (SERAC) & Center for Economic and Social Rights (CESR) v Nigeria,*[42] on behalf of the Ogoni people, the Social and Economic Rights Centre (SERAC) filed the lawsuit, claiming that the oil consortium had contaminated the local ecosystem and waterways with hazardous wastes, contaminating the air, water, and soil. Articles 2 (freedom from discrimination), 4 (right to life), 14 (right to adequate housing), 16 (right to health), 18(1) (right to family), 21 (right to freely dispose of their wealth and natural resources), and 24 (right to a clean environment) of the African Charter were all violated by the Federal Republic of Nigeria, according to the Commission. Therefore, among other things, the Commission urged the government to guarantee the Ogoni people's safety and offer fair compensation.

Despite these court decisions, problems like slow judicial processes, corporate resistance, and inadequate enforcement mechanisms persist. But as these cases show, litigation is becoming increasingly important in holding Nigerian companies accountable for human rights abuses.

4. Impediments to litigation against companies

There are some procedural obstacles in litigations against MNCs. These impediments can prevent victims from obtaining justice for alleged wrongful acts and human rights violation by companies. In Nigerian courts, a defendant can apply for dismissal of cases based on statutes of limitation, admissibility of scientific evidence, and misjoinder of parties.[43]

4.1 Impediments to litigation in the United Kingdom and United States

In British and US courts, forum non conveniens (FNC) is a doctrine that can be an obstacle. This is a common law doctrine that gives the court discretion of refusal to exercise jurisdiction on the ground of an alternative forum. FNC comes up on the application of the defendant.[44] The defendant must be able to establish that there is an adequate available alternative forum and to weigh interests to decide on the most convenient forum for litigation.[45] After establishing this ground, the defendant must convince the court that the dismissal of the case is in the best interests of the parties and forums.[46] The doctrine can be detrimental to a plaintiff's case because the dismissal of a case on the basis of FNC in a US court,

[41] Igbayiloye, (n 30).
[42] *Social and Economic Rights Action Center (SERAC) & Center for Economic and Social Rights (CESR) v Nigeria Communication* 155/96.
[43] Frynas (n 31) 128.
[44] Joseph (n 12) 88.
[45] Ibid.
[46] See O Oluduro, O *OIL Exploitation and Human Rights Violations in Nigeria's Oil Producing Communities* (Intersentia: Cambridge 2014) 328.

may not be litigated in the available foreign forum.[47] For instance, in *Wiwa v Royal Dutch Petroleum*, the home state of one of the defendants which is England was found to be an adequate alternative forum.[48] In addition, England was found to be adequate without considering the likelihood of success of the litigation for the plaintiff. On appeal, the Second Circuit in Wiwa 2000[49] ruled that the District Court failed to properly consider in favour of retention of jurisdiction of the plaintiff's choice of forum, and the interest of the US which is expressed in the TVPA as providing a forum for adjudication of claims of international human rights abuses. The court failed to consider the possible substantial expense and inconvenience to be imposed on the plaintiffs by dismissal on the basis of the England forum.[50]

Another obstacle recognised in England is the 'loser pays' principle in which an unsuccessful litigant pays the costs of the opponent.[51] This principle restricts litigation of international human rights in England. Sovereign immunity can be another obstacle in which foreign governments or their representatives or official of some international organisations may be immune from civil suits as can be seen in US and England. Recognised foreign states can be protected from suits except where the claim falls within the exceptions to the Foreign Sovereign Immunities Act (FSIA) in the US.[52] The doctrine of sovereign immunity applied in British can be broader than what is applied in the US. In Propend Finance Pty v Alan Sing & the Commissioner of the Australian Federal Police,[53] the court held that the sovereign immunity accorded to a state government extends to state workers and foreign states' agents. Furthermore, the 'act of state' doctrine prevents US court from exercising jurisdiction over claims that involves a foreign sovereign's official acts within its own territory.

Another barrier to an ACTA claim is with regards to the 'political question' doctrine which provides that a court may not exercise jurisdiction over a dispute that is related to a non-justiciable political question. A defendant may ask that a case under ACTA or TVPA be dismissed on the basis that the suit is of a political question which should not be adjudicated by the court.[54] The doctrine of international comity is another obstacle devised to avoid putting a country's judiciary in the position of passing a legal judgment that may be different to, or impinge on the sovereignty of other states.[55] In *Hilton v Guyot*[56] the doctrine was explained as the recognition one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience.

4.2 Impediments to Litigation in Nigeria

In Nigeria, certain challenges may not aid litigation of mining related matters in court. These challenges can become barriers to realising a human rights-based approach to mining. This is because such challenges can impede victims from obtaining justice for the wrongful act they have suffered. A challenge is poor awareness of current mining activities in Nigeria. As a result, certain people are ignorant of the seriousness of the impacts of mining operations in the country unlike global knowledge of the damages caused by oil spillage. Some NGOs and the media took steps to carry out researches in some affected communities and publish their reports on the impact of the activities of mining companies in those communities. However, these efforts are not enough. The problem of unawareness may prevent litigation by victims who would want to challenge companies for the violation of their rights. This is because, lawyers and even judges may not have adequate knowledge in the field and the seriousness of the social and environmental impacts of mining activities. Another challenge is cost of prosecuting the companies in courts since the affected communities are devastated with their livelihood taken away from them. The companies on the other hand are usually powerful in capacity and resources than the communities and they can afford several lawyers for their defense. In addition, compensation awarded in African courts for damages caused by MNCs may not be adequate

[47] Joseph (n 12) 88.
[48] *Wiwa v Royal Dutch Petroleum Co* No 96 Civ 8386, 1998 US Dist LEXIS 23064 15–16.
[49] *Wiwa v Royal Dutch Petroleum* (2000) 226 F 3d 88 (2d Cir).
[50] Ibid, 107.
[51] M Byers 'English courts and serious human rights violations abroad: A preliminary assessment' in M Kamminga & S Zia-Zarifi (eds) *Liability of Multinational Corporations under International Law* (2000) 244 cited in Joseph (n 16) 120.
[52] (1988) 28 USC §§1330, 1602-1611. See Stephens & Ratner (n 6 above) 125.
[53] (1997) TLR 238.
[54] Stephens & Ratner (n 6) 141.
[55] Oluduro (n 46) 330.
[56] *Hilton v Guyot* 159 US 113 (1895) 164.

compared to the large amount of compensation awarded in abroad like the English or US courts.[57] The compensation awarded in courts abroad in the currency is usually more than that of those awarded in African courts. The lawyer representing plaintiffs in a Nigerian court without payment may share the compensation awarded in court which can be about or more than half of the award due to the number of times of court sitting, filing of papers and obtaining expert evidence in the case. For instance, in *Shell v Farah*, the lawyers did not receive fee for the case but got 54 percent of the total compensation.[58]

Frynas found two important variables that explain the shift in the legal approach to social and environmental litigation against multinational corporations (MNCs) based on his research on Nigerian litigation on oil-related concerns. These include "the impact of changing social attitudes on judges" and "increased professional ability of legal counsel working for claimants" in litigation against MNCs in Africa and outside.[59] For instance, the landmark case Shell v Farah in Nigeria was instituted by Ledum Mittee, a Port Harcourt based lawyer and a principal leader of the Movement for the Survival of the Ogoni People (MOSOP) that protested against Shell in Nigeria.[60] Despite the fact that the majority of oil cases against multinational corporations in Nigerian courts were started by attorneys drawn by the financial incentives, the attorneys continued to help victims in their legal battles against MNCs without receiving payment and instead awaited a portion of the damages the court would grant if the case was successful.[61] Through media reporting and NGOs' demonstrations, judges may be discover about the effects of the damages incurred by impacted persons and communities. In order to become more receptive to those impacted by corporate actions, more work must be done to inform the public about mine-related issues and to persuade victims to file lawsuits.[62]

5. Conclusion and Recommendations

One effective strategy for holding companies responsible for human rights abuses is litigation against multinational corporations (MNCs) involved in the mining industry. Affected communities have the right to demand improved practices and seek justice through legal frameworks, international human rights standards, and environmental legislation. However, mining related matters is rarely instituted in courts in Nigeria. Litigation in courts of human rights violation alleged against companies in different jurisdiction including oil cases in Nigeria, points to the fact that citizens, affected communities, lawyers, and NGOs can institute cases in court against companies for their wrongful acts notwithstanding the barriers to litigation. Therefore, litigation must be combined with more robust regulatory frameworks, international collaboration, and corporate social responsibility programs in a multifaceted strategy. To guarantee that litigation is actually successful in bringing about long-term accountability, it is crucial to address the systemic issues impacted communities face. Further research would discuss and assesses alternative approaches that could improve corporate accountability which could be encouraged and established by government and stakeholders.

Holding multinational corporations (MNCs) responsible for human rights abuses requires a robust and more unified legal system. The obligations of corporations with regard to environmental preservation, human rights, and the rights of impacted communities should be clearly outlined in both international and national legislation. All MNCs should be required by law to conduct human rights due diligence, which entails evaluating and reducing the risks that their operations pose to the environment and local communities. Additionally, in human rights litigation, it is important to highlight the role of impacted communities and non-governmental organisations (NGOs), many of which lack the resources and knowledge to file a lawsuit on their own. Corporate accountability-focused legal aid groups should be supported by governments and international organisations. These groups can offer financial resources and legal advice to impacted communities seeking legal action. Furthermore, increasing public knowledge of the problems relating to multinational corporations and violations of human rights is essential for generating pressure from the public and inspiring legal action. Investigative journalism, public campaigns, and media coverage can all be very important. Media outlets have the power to influence public opinion and put pressure on businesses and governments to take action by showcasing the experiences of victims of human rights abuses. Reputation being a common concern for MNCs may be a medium to respond positively in such situations.

[57] JG Frynas 'Social and environmental litigation against transnational firms in Africa' (2004) 42(3) *The Journal of Modern African Studies* 373.
[58] JG Frynas *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities* (2000) 109.
[59] Frynas (n 57) 374.
[60] Ibid.
[61] Ibid, 375.
[62] Igbayiloye (n 30).