

**Submission to the African Commission on Human and Peoples’  
Rights to support its General Comment on the Scope of Article 24 of  
the African Charter**

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**Introduction**

1. This submission is made by HEDA Resource Center (“**HEDA**”) in response to the African Commission on Human and Peoples' Rights’ (the “**ACommHPR**”) call for submissions in respect of its Resolution ACHPR/Res.633 (LXXXIII) 2025 on Developing General Comment on the Protection and Promotion of the Right to Environment in Africa in terms of Article 24 of the African Charter on Human and Peoples’ Rights (the “**African Charter**”). As set out in the ACommHPR’s call for submissions, HEDA understands that the General Comment will provide normative guidance on the scope and content of the right to a satisfactory, clean, healthy and sustainable environment as guaranteed under the African Charter and interpreted through the jurisprudence of the ACommHPR and other relevant regional and international human rights standards.
2. HEDA notes that Article 45(1)(1) of the African Charter permits the ACommHPR to encourage local and national institutions concerned with human and peoples’ rights to give its views. Further, on 20 May 2026, HEDA notes that the Chairperson of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (“**Chairperson**”) invited national human rights institutions, civil society organisations and environmental and human rights experts to provide substantive written input to assist in developing the content of the draft outline of the General Comment. Given HEDA’s expertise in human and people’s rights, HEDA respectfully requests that the Chairperson consider HEDA’s submission when developing the ACommHPR’s General Comment.

**Organisational Background**

3. HEDA is a Nigerian non-governmental organisation with registration number CAC/IT/NO16485 established in 2001 and a non-partisan human rights and development league. HEDA’s mission is to serve as a centre for environment and human rights studies. HEDA conducts and promotes research and education and collects relevant materials on human rights issues with the aim of enhancing and distributing knowledge on the environment and human rights to all those who are hard-to-reach. HEDA operates through two key departments, each dedicated to driving change and impact in specific areas: (i)

good governance and human rights and (ii) environmental justice and sustainable development.

### **Comments on Draft Outline of General Comment**

4. In summary, HEDA submits that late life asset divestments (sales) by multinational corporations across the mining and oil and gas industries are a human rights issue because:
  - a. divestment is often to smaller companies who cannot afford to decommission and remediate industrial sites, causing ongoing harm and damage to human health and the environment, due to ongoing pollution issues and a lack of clean up; and
  - b. this pattern of divestment as “liability dumping” perpetuates a colonial legacy, as multinational corporations take the benefits of resource exploitation whilst leaving the negative effects to the host countries and their people to deal with.
5. HEDA’s submission applies equally to divestment of environmental liabilities and clean-up failures across Africa’s mining and oil & gas industries. HEDA relies on the recent divestments from the Niger Delta as a case study to illustrate its submissions, noting that similar events have occurred and continue to occur across the continent in both the mining and oil & gas industries.

### ***Section 1(b) of the General Comment: Introduction, historical injustices and structural inequalities***

6. HEDA submits that section 1(b) of the General Comment should expand on paragraph 11 of the Chairperson’s background report, which recognises the severe impacts of oil pollution in the Niger Delta.
7. The impacts of oil pollution in the Niger Delta, and the resulting environmental genocide, has primarily been caused by negligence and underinvestment by multinational corporations who were given consent to extract Nigeria’s natural resources. In particular:
  - a. Since the late 1950s, oil extraction in the Niger Delta has largely been conducted by the wholly controlled Nigerian subsidiaries of a handful of multinationals, which until the recent wave of divestments, accounted for around 75% of the oil extracted in Nigeria.<sup>1</sup>
  - b. The companies’ operations have caused widespread environmental damage, with an estimated “9-13 million barrels of oil” spilt in the Niger Delta between 1958 and 2010.<sup>2</sup> Shell Petroleum Development Company (“**SPDC**”), Shell’s now divested Nigerian subsidiary, has historically been the biggest polluter.<sup>3</sup>

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<sup>1</sup> The Bayelsa State Oil and Environmental Commission, “An Environmental Genocide: The human and environmental cost of Big Oil in Bayelsa, Nigeria”, 2023, p.9. <https://report.bayelsacommission.org/>

<sup>2</sup> Ibid, p.11. Citing Osuagwu, E.S. and Olaifa, E. 2018. Effects of oil spills on fish production in the Niger Delta. PLoS one, 13(10), e0205114: <https://doi.org/10.1371/journal.pone.0205114>;

Ibid, p.19. Citing Watts, M. and Zalik, A. 2020. Consistently unreliable: Oil spill data and transparency discourse. The Extractive Industries and Society, 7, pp. 790-795

<sup>3</sup> Ibid, p.11;

Amnesty, Negligence in the Niger Delta: Decoding Shell and Eni’s poor record on oil spills, 2018, p.5, <https://www.amnestyusa.org/wp-content/uploads/2018/03/DecodersReport.pdf>

- c. The impacts of oil operations in Nigeria have been devastating for the health, livelihoods, way of life and wellbeing of the local communities. The result has recently been described by the Bayelsa Commission as an “environmental genocide”<sup>4</sup> with hundreds of thousands of people exposed to serious health risks in the Ogoni land region alone<sup>5</sup> and particular impacts on infants.<sup>6</sup>
  - d. The oil companies have blamed most spills on third party tampering, including by oil thieves, or bunkerers. However in reality, the poor state of oil infrastructure in the region significantly contributed to the spills.<sup>7</sup>
8. In addition to detailing the environmental impacts of pollution, HEDA submits that the General Comment should also consider the human rights impacts of irresponsible divestment strategies employed by multinational corporations as part of the historic injustices and structural inequalities underpinning the interpretation of Article 24 of the African Charter. Section 1(b) of the General Comment should build on Section C of the Background Report, by identifying irresponsible divestment without clean-up as a product of: (i) poor regulatory standards and enforcement, and (ii) the human rights protection vacuum in extractive industries. Both of these conditions have already been identified in the Background Report as enablers of the grave environmental crisis in Africa, which in the case of divestment, enable the evasion of responsibility for clean-up and legacy pollution through poor governance of mining and oil & gas activities.<sup>8</sup>
  9. In particular, in the Niger Delta, multinationals are divesting aging, leaking and poorly maintained infrastructure to national oil companies (“**NOCs**”) without conducting adequate clean-up operations for historic spills, or leaving sufficient funds in escrow for decommissioning and remediation, as required under local law. Local ownership is usually considered a step towards resource sovereignty favorable to development. However, in this instance, unjust and destructive exits resulting from delayed and improper decommissioning threaten the environment and hinder development. These exits instead perpetuate widespread pollution and replicate a colonial legacy of economic extraction by shifting liability onto the state given that poorly-capitalised NOCs are unable to cover the clean-up and decommissioning costs.

<sup>4</sup> Drawing on a health impact study based on the collection and analysis of blood samples taken from over 1,600 people in Bayelsa, the Commission reports that “toxins from oil pollution are present at often dangerous levels across the state and have infiltrated the food chain, ending up in the bloodstreams of those tested in affected communities”. See: The Bayelsa State Oil and Environmental Commission, op cit, p.12.

<sup>5</sup> UNEP, Environmental Assessment of Ogoniland Report, 2011, <https://wedocs.unep.org/handle/20.500.11822/25282>.

<sup>6</sup> Infants in the Niger Delta are twice as likely to die in their first month of life if their mothers live near an oil spill, amounting to an estimated 11,000 premature deaths per year. See: Kate Hodal, “‘Absolutely shocking’: Niger Delta oil spills linked with infant deaths”, The Guardian, 6 November 2017, <https://www.theguardian.com/global-development/2017/nov/06/niger-delta-oil-spills-linked-infant-deaths>

<sup>7</sup> Simi Jolaoso, “Shell pumped oil through Nigeria pipeline for years despite pollution evidence, documents show”, BBC, 3 June 2026, <https://www.bbc.co.uk/news/articles/cdrp8v7407ro>; According to one study of 300 spills, over 80% “were due to equipment or other forms of operational failure”. And, the Nigerian Government’s Department of Petroleum Resources (now replaced by the Nigerian Upstream Regulatory Commission (“**NUPRC**”)), attributes almost 90% of spills to equipment failure. See: The Bayelsa State Oil and Environmental Commission, op cit, p.100; Likewise, UNEP concluded that the company’s own procedures “have not been applied, creating public safety issues.” See: UNEP, op cit, p.14.

<sup>8</sup> “Oil companies’ divestment breached human rights in Nigeria, UN Experts say”, Semafor, 1 September, 2025, <https://www.semafor.com/article/09/01/2025/oil-companies-divestment-breached-human-rights-in-nigeria-un-experts-say>

10. Between 2023 and 2025, multinationals divested nearly all of their onshore Niger Delta assets or are seeking to do so.<sup>9</sup> There is a real concern that the buyers do not have the financial resources to undertake the necessary remedial work or compensate affected communities for the human rights abuses that have resulted from historic operations.<sup>10</sup> For example, the Bayelsa Commission Report estimates that clean up and remediation of Bayelsa state alone would cost approximately \$12 billion, with a significant proportion falling to SPDC/Renaissance. Yet Renaissance (the purchaser of Shell's Nigerian subsidiary) has stated that its asset base amounts to USD 3 billion - which would amount to a quarter of the projected clean-up costs in Bayelsa state alone.<sup>11</sup>
11. The approval of the sale of SPDC by Shell plc was particularly controversial. According to new reports, NUPRC, the regulator tasked with approving the transaction originally refused to do so, on the basis that previous environmental liabilities were not properly dealt with under the terms of the transaction.<sup>12</sup> This decision was then overturned directly by the President, Bola Tinubu (acting as the Minister of Petroleum resources) who approved the deal on 18 December 2024<sup>13</sup>, with the Nigerian Guardian reporting that "as stakeholders insisted that the President Bola Tinubu might have abandoned the rule of law and oil politics in the altar of political considerations."<sup>14</sup> The Financial Times later reported that Shell had made its \$5 billion investment in the offshore Bonga north oil field conditional on approval of the sale.<sup>15</sup> This confirms that significant political and economic pressure was placed on the President by Shell plc to overturn the independent regulator's decision.<sup>16</sup> No consultation with affected communities was conducted in relation to the sale, as required by the Nigerian regulation guiding divestment.

<sup>9</sup> Shell plc sold SPDC to the Renaissance Consortium, an African-led consortium in 2025. Eni has similarly divested elements of its subsidiary NAOC to Oando Energy Resources Nigeria Limited, a controlled subsidiary of OANDO Oil II Cooperatief UA, registered in The Netherlands. Exxon Mobil has also divested its subsidiary to the Nigerian-registered oil company Seplat Energy, a company listed on the Nigerian Exchange and the London Stock Exchange.

<sup>10</sup> SOMO "How Shell turned a leaking pipeline into profit" (June 2026) <https://www.somo.nl/how-shell-turned-a-leaking-pipeline-into-profit/>

<sup>11</sup> Renaissance Africa Energy Company Limited, <https://raecafrika.com/#about>; The Energy Year, Renaissance completes acquisition of Shell's Nigerian assets (14 March 2025) <https://theenergyyear.com/news/renaissance-completes-acquisition-of-shell-nigerian-assets/>

<sup>12</sup> "NUPRC confirms rejection of \$1.3 billion Shell asset sale to Renaissance Group", Nairametrics (21 October 2024) <https://nairametrics.com/2024/10/21/nuprc-confirms-rejection-of-1-3-billion-shell-asset-sale-to-renaissance-group/> This article quotes NUPRC CEO Gbenga Komolafe stating NUPRC will expedite approval only if Shell takes responsibility for oil spills and agrees to fund cleanup efforts in the Niger Delta and that Shell's compliance with these terms would allow for a faster approval process. Alternatively, a longer approval route would involve waiting until the NUPRC identifies and assigns all liabilities, Komolafe added. The rejection was also reported in the Financial Times on 21 October 2024;

"Nigeria rejects Shell's planned sale of \$1.3bn onshore production unit", Financial Times, 21 October 2024 <https://www.ft.com/content/91221af2-747e-43e8-9202-36cd49093b1b>

<sup>13</sup> "Tinubu okays Shell's sale of onshore unit SPDC to Renaissance", Markets Reporters, 18 December 2024 <https://www.marketsreporters.com/2024/12/18/breaking-tinubu-okays-shells-sale-of-onshore-unit-spdc-to-renaissance/>

<sup>14</sup> "New twists over Shell's divestment as stakeholders fault NUPRC, Tinubu", Nigerian Guardian, 24 December 2024 <https://guardian.ng/news/new-twists-over-shells-divestment-as-stakeholders-fault-nuprc-tinubu/>

<sup>15</sup> "Shell tied new Nigeria offshore investments to approval for oil asset sale", Financial Times <https://www.ft.com/content/a56fb99d-f95e-4e0f-9312-3b56e14a94fb>

<sup>16</sup> "Shell fights to win approval for sale of Nigerian onshore business", Financial Times <https://www.ft.co/content/7d570ff6-b8f9-4af0-b498-52ef203b5b52>

## **Section 5 of the General Comment: The nature and scope of the obligations of states and businesses in relation to the right to environment**

12. HEDA submits that the role of states and businesses in properly regulating and supervising the divestment of international companies from oil & gas and mining projects across the continent should be included in Section 5 of the General Comment, due to their central role in guaranteeing the right to a satisfactory environment that is favorable to development.
13. Clean-up, environmental remediation and proper decommissioning already forms part of the scope of Article 24.
  - a. The impact of oil pollution from extractive industries has played a foundational role in shaping Article 24 of the African Charter, as noted in the Background Report's references to *SERAC v Nigeria* [2001]<sup>17</sup> and *SERAP v Nigeria*.<sup>18</sup>
  - b. In addition, HEDA draws the Chairperson's attention to the ACommHPR's State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment, which states ("**Reporting Guidelines**"), in relation to Article 24, that in: *"[...] cases of environmental despoliation or pollution from industrial activities, people are entitled to the measures necessary for the cleaning up and restoration of the affected environment. Despoliation of the environment may continue after mine closure or when the extractive processes have come to an end. The protective measures for affected persons continue to apply equally in such cases."*<sup>19</sup>
14. However, as multinational corporations are divesting their polluting mining and oil & gas assets, without cleaning up legacy pollution themselves or ensuring the purchasers are in a financial position to do so, the General Comment on Article 24 should recognise this as an evolving threat to the environment and the people who depend upon it.
15. International bodies including the UN have recognised the link between divestment and the right to a satisfactory environment. In particular, HEDA draws the Chairperson's attention to a communication sent in August 2025 by seven UN Human Rights Mandate Holders<sup>20</sup> expressing concerns that the divestment from oil and gas assets in Nigeria could violate international human rights law, including the right to a satisfactory environment. In particular, the letter finds that the Nigerian Federal Government's approval of the SPDC

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<sup>17</sup> Social and Economic Rights Action Center (SERAC) and another v. Nigeria (Communication 155/96) 2001

<sup>18</sup> *SERAP v. Federal Republic of Nigeria* (2012) ECW/CCJ/JUD/18/12

<sup>19</sup> African Commission of Human and Peoples Rights, State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment, p.30  
<https://achpr.au.int/en/node/845>

<sup>20</sup> UN Working Group et al, Letter to Nigeria, 2 July 2025,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=29910>

The Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on the rights of peasants and other people working in rural areas and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

transaction resulted in a failure to prevent human rights abuses. In letters to the governments of Nigeria and the home states of oil multinationals Eni, Shell, ExxonMobil and Total, the mandate holders state:

*“The divestment processes, which have lacked transparency, carry a high risk of perpetuating human rights impacts, and hindering any environmental remediation and access to remedy efforts. For the Nigerian Government to have approved the divestments to date therefore raises serious concerns as to its fulfilment of its obligation to protect human rights, **including the right to a clean, healthy and sustainable environment.**”<sup>21</sup> (emphasis added).*

16. HEDA submits that the General Comment should therefore build on the Nigerian jurisprudence, the ACommHPR Reporting Guidelines and the UN letters by setting out the obligations on states to govern the actions of multinational corporations and their exit strategies, in order to guarantee the right to a satisfactory environment. HEDA submits that responsible divestment includes requirements on companies to decommission infrastructure and restore land, remedy legacy pollution and ensure proper regulatory oversight of divestment processes. Additional suggested measures can be found in the Principles on Responsible Divestment, developed by SOMO (The Centre for Research on Multinationals).<sup>22</sup>

17. The jurisprudence shaping Article 24 of the African Charter already acknowledges the responsibilities of states in regulating companies to ensure the protection of rights holders.

- a. As established by *SERAC v Nigeria*, rights under the African Charter have horizontal effect, meaning African states are required to protect communities against the actions of corporations.
- b. *SERAP v Nigeria* developed this jurisprudence further by linking the State’s failure to provide a right to a satisfactory environment to its failure to hold the multinational oil companies operating in Nigeria accountable for their actions.<sup>23</sup>

*“108. From what emerges from the evidence produced before this Court, the core of the problem in tackling the environmental degradation in the Region of Niger Delta resides in lack of enforcement of the legislation and regulation in force, by the Regulatory Authorities of the Federal Republic of Nigeria in charge of supervision of the oil industry.*

*109. Contrary to the assumption of the Federal Republic of Nigeria in its attempt to shift the responsibility on the holders of a licence of oil exploitation (see paragraph 82), the damage caused by the oil industry to a vital resource of such importance to all mankind, such as the environment, cannot be left to the mere discretion of oil companies and possible agreements on compensation they may establish with the people affected by the devastating effects of this polluting industry.*

*110. It is significant to note that despite all the laws it has adopted and all the agencies it has created, the Federal Republic of Nigeria was not able*

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<sup>21</sup> Op cit, page 9.

<sup>22</sup> SOMO, The Principles for Responsible Divestment (March 2026) <https://www.somo.nl/responsible-divestment-from-fossil-fuels/>

<sup>23</sup> Paragraphs 108 - 111

*to point out in its pleadings a single action that has been taken in recent years to seriously and diligently hold accountable any of the perpetrators of the many acts of environmental degradation which occurred in the Niger Delta Region.*

*111. And it is precisely this omission to act, to prevent damage to the environment and to make accountable the offenders, who feel free to carry on their harmful activities, with clear expectation of impunity, that characterises the violation by the Federal Republic of Nigeria of its international obligations under Articles 1 and 24 of the African Charter on Human and Peoples' Rights."*

18. In addition, HEDA submits that the General Comment should explicitly acknowledge the overlap between Articles 21 and 24 of the African Charter. Article 21(5) requires State parties to eliminate all forms of foreign exploitation, ensuring local populations fully benefit from their resources. As shown by the SPDC transaction referred to in paragraph 11 above, foreign economic exploitation can include exploitation of natural resources without environmental remediation through leveraging the promise of further investment in the country. The right to a satisfactory environment is therefore linked to the right to be protected against foreign economic exploitation, and the continuing colonial exploitation of Africa's natural resources by multinational corporations.

19. HEDA submits that the General Comment should recognise the role played by African States in promoting and implementing effective decommissioning and responsible divestment. Robust regulation of multinational corporations is paramount to the protection of the human and peoples' right to a general satisfactory environment favorable to their development.

Signed by:



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**Olanrewaju Suraju**  
Chairman, HEDA