

# **HUMAN RIGHTS, HUMAN WRONGS: ADDRESSING INJUSTICE IN AGRIBUSINESSES IN NIGERIA.**

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*With the recent quest to diversify the Nigerian economy towards agriculture, large scale agricultural activities will spring up, requiring appropriate legal and regulatory framework. A cursory look at small and medium scale agricultural activities in Nigeria reveal that currently, serious human rights violations exist, lack of transparency is exhibited and discriminatory laws and practices are promoted. This can only get worse with increased participation in agricultural activities. Human rights to life and property have been made insignificant in the farmers-herders conflict, with thousands of lives and properties destroyed. Recent studies have shown that agricultural activities, products and wastes now constitute one of the major causes of water pollution, leading to unsafe water and environmental degradation in Nigeria. Unregulated chemical uses for production and storage of agricultural produce have adverse effects on the health of the producers and consumers. Labour and safety standards require strict observance, to guarantee the human rights of the employees. Yet, significantly lower and discriminatory wages are paid to rural women labourers than are paid to their male counterparts. The aim of this paper is to identify and examine the varied cases of human rights violations and discriminatory practices that arise from agricultural activities in Nigeria. It employs the rule of law theory to explore approaches at mitigating human rights abuses in agricultural resources development in Nigeria. It recommends a proactive strategy to combating these menaces before Nigeria embarks on large scale agricultural activities so as to thwart its ill effects on lives, properties and the environment.*

**Keywords: Human rights in Agricultural Development, Agri-business, Rule of law.**

## **1.0 INTRODUCTION**

Developments and exploration of natural resources in the Niger-Delta region of Nigeria began with little regulation of activities.<sup>1</sup> These resulted to adverse effects on the lives, health status and the environment of the occupants of the region. The air, land and water were polluted, resulting to infringements on their rights to life, health, food, clean water and

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<sup>1</sup> See generally, AOY Raji and TS Abejide, *The British Mining & Oil Regulations in Colonial Nigeria 1914-1960: An Assessment*,(2014) *Singaporean Journal of Business Economics, and Management Studies* vol.2, no.10, 62-75. [http://www.singaporeanjbem.com/pdfs/SG\\_VOL\\_2\\_\(10\)/7.pdf](http://www.singaporeanjbem.com/pdfs/SG_VOL_2_(10)/7.pdf)

healthy environment.<sup>2</sup> Later regulation of the activities leading to these adverse effects could become difficult to currently negotiate and implement, in the presence of profit-oriented multinational companies. With the recent quest to diversify the Nigerian economy towards agriculture, large scale agricultural activities will spring up and attract foreign investments by big and multinational companies. There is therefore a need to contemplate adequate regulation in the agricultural sector, in order to avoid human rights abuses, incessant health challenges and environmental degradation that were hitherto not envisaged but experienced by the oil and gas exploration activities in the Niger Delta region.

The starting point to this approach will be to identify and examine human right abuses that are currently experienced in the small and medium scale agricultural activities in Nigeria. This will enable projections on what areas need to be regulated, before large scale agricultural activities erupt and engulf the agro-allied industry. This demand is grounded on the ideals of equality and justice, as provided under Section 17(1) of the Constitution.<sup>3</sup> Under subsection 2 of this provision, the state will ensure that every citizen shall have equality of rights, obligations and opportunities before the law; the sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced; governmental actions shall be humane; and the exploitation of human or natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented.

The UN Global Compact,<sup>4</sup> under Principles 1 and 2 require businesses to support and respect the protection of internationally proclaimed human rights; and make sure that they are not complicit in human rights abuses. There is also a duty on every citizen under the Nigerian Constitution to abide by the Constitution, respect its ideals and its institutions, and respect the rights and legitimate interests of others.<sup>5</sup> This will include all recognized human rights. Upholding human rights in doing agricultural businesses will not only mean abiding by the

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<sup>2</sup> Niger Med J, v.54(1); Jan-Feb 2013. The human health implications of crude oil spills in the Niger delta, Nigeria: An interpretation of published studies. Best Ordinioha and Seiyefa Brisibe  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3644738/>

<sup>3</sup> 1999 Constitution of the Federal Republic of Nigeria, (hereinafter referred to as the Constitution).

<sup>4</sup> The UN Global Compact's Ten Principles are derived from: the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention Against Corruption. See <https://www.unglobalcompact.org/what-is-gc/mission/principles>.

<sup>5</sup> Section 24 of the Constitution

rule of law but will contribute to achieving Sustainable Development Goals (SDGs) One, Two, Three, Five, Six, Eight, Ten, Twelve, Thirteen and Sixteen.<sup>6</sup>

This paper seeks to identify and examine the varied cases of human rights violations and discriminatory practices that arise from agricultural activities in Nigeria. After this introduction is the section that lays the conceptual and theoretical frameworks for discussion. Section three examines human right issues in agricultural businesses in Nigeria. Section four examines the role of the law in addressing the injustices in agricultural businesses in Nigeria. The last section concludes the paper with recommendations on proactive strategies in combating these menaces before Nigeria embarks on large scale agricultural activities so as to thwart its ill effects on human lives, properties and the environment.

## ***2.0 CONCEPTUAL AND THEORETICAL FRAMEWORKS***

### ***2.1 The concept of Human rights***

Early theorists postulated that human beings had some specific inalienable rights in themselves as human rights which they were endowed with by nature and that these rights gave rise to duties on the part of the State and other individuals in the society to respect them.<sup>7</sup> These are sometimes referred to as 'human rights', 'fundamental human rights' 'basic rights' or 'natural rights'. Although usually used interchangeably, these phrases do not mean the same thing. It could be said that 'fundamental' or 'basic' rights are those rights which must not be taken away by any legislation or act of the state, except under certain qualified conditions.<sup>8</sup> They are often set out in the fundamental law of the country, for example in the Constitution. In Nigeria, these are set out under Chapter IV of the Nigerian Constitution. Conversely, 'natural' or 'common' rights, are seen as belonging to all men and women<sup>9</sup> by virtue of their human nature, thus the general name- human rights.<sup>10</sup> Human rights are

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<sup>6</sup> See <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

<sup>7</sup> A Atsenuwa, 'Between Chapter Two and Chapter Four of the 1999 Constitution: Justifying Economic, Social and Cultural Rights in support of Civil and Political Rights' in *Justiciability and Constitutionalism: An Economic Analysis of Law*, E.Azinge and B.Owasanoye B (eds), (NIALS Press2010), 217-18

<sup>8</sup> Towards a new approach to the classification of human rights with specific reference to the African context. John C Mubangizi. (2004) 1 AHRLJ 93-107. AHRLJ Volume 4 No 1 2004. P94

<sup>9</sup> Human rights were initially referred to as 'the rights of man' until the 1940s, when Eleanor Roosevelt advocated for the use of the expression 'human rights' after realising, through her work in the United Nations, that the rights of men were not comprehended in some parts of the world to include the rights of women. The term 'rights of man' had in fact replaced the original term 'natural rights', which had arisen as a result of its

generally classified into three categories, namely; first, second and third generation rights; following their historical development. The first generation consists of civil and political rights. These are the customary rights of the individual against the state and they exhibit the laissez-faire doctrine of non-interference. The second generation consists of economic, social and cultural rights. This category comprises rights founded on the status of the individual as a member of the society.<sup>11</sup> Unlike first generation rights; social, economic and cultural rights necessitate more positive actions on the part of the state to deliver or at the minimum, create conditions for access to facilities considered vital for contemporary life. The third generation rights are fairly recent in origin. These rights are described as solidarity rights, as they are collective in nature and depend on international co-operation for their realization.<sup>12</sup> In Nigeria, the second and third generation rights are mostly found under Chapter II of the Constitution.

There have been arguments as to whether the categorization of human rights depicts the priority and precedence of one generation from another. Today, most people are in agreement that all human rights are equal, indivisible and interdependent.<sup>13</sup> It is on this note that discussions in this paper use human rights to include the three generations of rights.

## ***2.2 Agricultural businesses***

Agricultural business, also commonly referred to as ‘agribusiness’, is the farming, production, management, processing and marketing of agricultural commodities, such as crops, livestock and fiber.<sup>14</sup> It encompasses all the steps required to send an agricultural produce to market.<sup>15</sup> All agents of the food and fiber value chain and the institutions that influence it form the agribusiness system.

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connections with natural law. See Towards a new approach to the classification of human rights with specific reference to the African context. John C Mubangizi. (2004) 1 AHRLJ 93-107. AHRLJ Volume 4 No 1 2004. P94

<sup>10</sup> Towards a new approach to the classification of human rights with specific reference to the African context. John C Mubangizi. (2004) 1 AHRLJ 93-107. AHRLJ Volume 4 No 1 2004. P94

<sup>11</sup> Towards a new approach to the classification of human rights with specific reference to the African context. John C Mubangizi. (2004) 1 AHRLJ 93-107. AHRLJ Volume 4 No 1 2004. P 95

<sup>12</sup> Towards a new approach to the classification of human rights with specific reference to the African context. John C Mubangizi. (2004) 1 AHRLJ 93-107. AHRLJ Volume 4 No 1 2004. P 95

<sup>13</sup> See what is human rights? <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>

<sup>14</sup> What Is Agricultural Business? [http://learn.org/articles/What\\_is\\_Agricultural\\_Business.html](http://learn.org/articles/What_is_Agricultural_Business.html)

<sup>15</sup> [Agribusiness Definition | Investopedia](http://www.investopedia.com/terms/a/agribusiness.asp#ixzz4l7tLHKoK)

<http://www.investopedia.com/terms/a/agribusiness.asp#ixzz4l7tLHKoK>

The term *agribusiness* has however, been used negatively and synonymously with corporate farming or large-scale commercial agricultural operations. Oddly, too, the term has been frequently used for any agriculturally-related business that supplies farm inputs, such as farm machinery and seed supply.<sup>16</sup> Discussions here do not adopt these connotations. Agribusiness as used in this paper refers to any business involved in farming, processing and marketing of farm produces.

### ***2.3 Rule of law***

Rule of law as defined by the United Nations refers to ‘...a principle of governance in which all persons, institutions and entities... are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.’<sup>17</sup> The most important principles of the rule of law, as will be applied in this paper, are that laws are clear, publicized, stable, and just; are applied evenly; and protect fundamental rights, including the security of persons and property and certain core human rights.<sup>18</sup> In this vein, the paper adopts the approach that explicit laws and regulations should be made and implemented to govern agricultural activities and businesses in order to protect human lives, property and the environment.

Secondly, the paper embraces Principles 1 and 2 of the UN Global Compact to require that businesses<sup>19</sup> in the agricultural sector respect human rights and are not complicit in human right abuses. It also enjoins citizens to respect the rights and legitimate interests of others as provided for under Section 24(c) of the Constitution, even where they do not agree with the rules.

Discussions here will therefore flow from these bases and be guided by the precepts of these principles.

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<sup>16</sup> By Jennifer Chait Updated May 15, 2017. <https://www.thebalance.com/what-is-agribusiness-2538209>

<sup>17</sup> U.N. Secretary-General, 'The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General' 4 U.N. Doc. S/2004/616

<sup>18</sup> What is the Rule of Law? The Four Universal Principles. <https://worldjusticeproject.org/about-us/overview/what-rule-law>

<sup>19</sup> Any company that has ten employees and above. Micro enterprises can embrace the principles but cannot be entered into the participant database

### **3.0 HUMAN RIGHT ISSUES IN AGRICULTURAL BUSINESSES IN NIGERIA**

As stated above, the human rights to be discussed under this section will include first, second and third generation rights. The approach to discussion here will be to identify the legal instruments backing up each right, deliberate on any abuse of such rights, with regards to agricultural development in Nigeria while the next section proffers clarifications on how the law can mitigate such abuses.

#### ***3.1 Right to life and right to property***

The taking of life of any person is prohibited, except under lawful circumstances as provided under Section 33 (1) and (2) of the Constitution.<sup>20</sup> Article 3 of the Universal Declaration of Human Rights (UDHR) provides that, ‘everyone has the right to life, liberty and security of person.’ Article 4 of the African Charter on Human and Peoples Right (ACHPR) provides that, ‘every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.’ In a like manner, everyone has a right to own property anywhere in Nigeria.<sup>21</sup> Article 17(2) of the UDHR provides that, ‘no one shall be arbitrarily deprived of his property’. Article 14 of the ACHPR states that ‘the right to property shall be guaranteed.’

Notwithstanding these provisions, abuses of the rights to life and property are glaring in farmers-herders clashes arising from the incompatible agricultural use of land and water. In the past few years, fights over land and water between Fulani herders and farmers across Nigeria have left thousands of people dead.<sup>22</sup> Properties worth billions of naira have been destroyed.<sup>23</sup> These have led to loss of human and financial resources that adversely affect the Nigerian economy. More importantly, they amount to infringements on the rights of life and

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<sup>20</sup> Section 33 of the Constitution

<sup>21</sup> Section 43 of the Constitution

<sup>22</sup> 6 July 2016. Nigeria: Deadly nomad-versus-farmer conflict escalates: Roaming Fulani cattle herdsman accused of launching deadly raids against farming communities and targeting Christians. Chika Oduah. <http://www.aljazeera.com/news/2016/07/nigeria-deadly-nomad-farmer-conflict-escalates-160704043119561.html>

<sup>23</sup> Nasarawa State Government, (2014) in Anthony C Ugwu and D M Enna, 'Conflict Transformation in Nasarawa State: The Alternative Dispute Resolution (ADR) Option (2015) 3 (3) Global Journal of Political Science and Administration 66 <<http://www.eajournals.org/wp-content/uploads/Conflict-transformation-in-nasarawa-state-the-alternative-dispute-resolution-ADR-option.pdf>> accessed 25 April 2017

property of the inhabitants of these conflict-prone zones<sup>24</sup> and demand protection by the government.

In a study of crisis in Nigeria between 1991 and 2005, it was found that conflicts over agricultural land use between farmers and herdsmen accounted for 35% of all reported crises.<sup>25</sup> This percentage may have increased significantly, in the light of the recent incessant attacks. Another study of communities in North Central Nigeria (NCN) showed that over 40% of the households surveyed had experienced agricultural land related conflicts.<sup>26</sup> Some of the farmer-herder clashes include the 2002 and 2004 clashes in the Yelwa-Shendam area of Plateau state in which thousands lost their lives;<sup>27</sup> the 2012 crisis in Gwako community, FCT between farmers and herdsmen,<sup>28</sup> the 2013 violent clashes in Nasarawa State which claimed 667 lives and destroyed properties worth over ₦2.3billion;<sup>29</sup> the 2014 clash between Eggon ethnic group and herders at Alingani in Nasarawa State;<sup>30</sup> the 2016 incessant communal clashes in Benue State between the Agatu farmers and the Fulani herdsmen, with an estimation that over 5,000 persons were killed in one of such clashes;<sup>31</sup> the 2017 clash between Gbagyi farmers and herdsmen in Niger state;<sup>32</sup> and the 2017 clash in Yakira community in Kwara State; all in the North-Central geo-political zone.<sup>33</sup> More Nigerian communities have also been affected by the farmer-herders clash as seen in Nimbo, Galadima, Obiaruku, Abraka, Tarka, Buruku, Ngodo, Biogbolo ,<sup>34</sup> and the recent clash in

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<sup>24</sup> In Nigeria, this happens to be the North-Central geo-political zone, because of its vegetation. However, recent events have moved further south.

<sup>25</sup> MJ Fasona and AS Omojola, 'Climate Change, Human Security and Communal Clashes in Nigeria' (2005) Paper at International Workshop in Human Security and Climate change 2005 cited Oluwasegun Adekunle

<sup>26</sup> A Nyong and C Fiki, (2005). 'Droughts-Related Conflicts, Management and Resolution in the West African Sahel' Human Security and Climate change Workshop 2005 cited in Oluwasegun, Adekunle

<sup>27</sup> Naziru Mikailu

<sup>28</sup> Abubakar Sadiq Isah, 'Kuje: Averting farmers/herders clash at Kabbi community' Daily Trust (February 11 2015) <<https://www.dailytrust.com.ng/daily/city-news/46632-kuje-averting-farmers-herders-clash-at-kabbi-community>> accessed 25 April 2017

<sup>29</sup> Nasarawa State Government, (2014) in Anthony C Ugwu and D M Enna, 'Conflict Transformation in Nasarawa State: The Alternative Dispute Resolution (ADR) Option (2015) 3 (3) Global Journal of Political Science and Administration 66 <<http://www.eajournals.org/wp-content/uploads/Conflict-transformation-in-nasarawa-state-the-alternative-dispute-resolution-ADR-option.pdf>> accessed 25 April 2017

<sup>30</sup> Edegbe Odemwingie, 'Nigeria: The Grazing Routes To Ethnic Bloodshed' Leadership Newspaper (November 28, 2014 < <http://leadership.ng/features/392080/nigeria-grazing-routes-ethnic-bloodshed>> accessed 27 April 2017

<sup>31</sup> Embracing Agatu/ Fulani Herdsmen Peace Initiative

<sup>32</sup> Laleye Dipo, 'Four Die as Farmers Fulanis again Clash in Niger' This day Newspaper (January 11, 2017) <<https://www.thisdaylive.com/index.php/2017/01/11/four-die-as-farmers-fulanis-again-clash-in-niger/>> accessed 26 April 2017

<sup>33</sup> Demola Akinyemi, '4 die in Kwara farmers, herdsmen clash' Vanguard Newspaper ( March 21, 2017) <<http://www.vanguardngr.com/2017/03/4-die-kwara-farmers-herdsmen-clash/>> accessed 26 April 2017

<sup>34</sup> 6 July 2016. Nigeria: Deadly nomad-versus-farmer conflict escalates:Roaming Fulani cattle herdsman accused of launching deadly raids against farming communities and targeting Christians. Chika Oduah.

Gembu-mambila area in Sardauna Local Government Taraba State where several persons were killed and over 15,000 cattle were either killed, maimed or rustled.<sup>35</sup>

This has propelled some State Houses of Assembly to promulgate laws that will mitigate these conflicts. Ekiti State has passed laws that prohibit grazing with arms to help curb the menace, as this predisposes violations of right to life.<sup>36</sup> Benue State has recently passed a law which prohibits open grazing and movement of livestock on foot within and across Benue State. It also prohibits cattle rustling, with different punishments for each offence. There is also a pending Open Grazing Prohibition and Ranchers Establishment Bill 2017 in Taraba State. All these are efforts by the different states to help deter violations of the rights to life and property.

The extent to which these laws will help in curbing the farmers-herders conflict is not clear as the Miyetti Allah Cattle Breeders Association of Nigeria and some other socio-cultural groups have vowed to challenge the laws,<sup>37</sup> describing them as obnoxious and an infringement on the cultural rights of the herders. It must however, be noted that while the government is required under Section 21 of the Constitution to protect, preserve and promote Nigerian cultures, it must be those which enhance human dignity; are consistent with the fundamental objectives as provided in Chapter 2 and within the duty to restrict movements in the interest of public order and safety as provided for, under Section 45 of the Constitution.

### ***3.2 Right to health***

The Nigerian State shall direct its policies to ensure that the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused.<sup>38</sup> Article 25 (1) of the UDHR provides that, everyone has the right to a standard of living adequate for the health and well-being of himself and of his family. Article 16 (2) of ACHPR provides that States

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<http://www.aljazeera.com/news/2016/07/nigeria-deadly-nomad-farmer-conflict-escalates-160704043119561.html>

<sup>35</sup> MACBAN blows hot over killing of Fulani herdsmen, cattle in Taraba. By Wale Odunsi on June 21, 2017. <http://dailypost.ng/2017/06/21/macban-blows-hot-killing-fulani-herdsmen-cattle-taraba/>

<sup>36</sup> Grazing Becomes Terrorism in Ekiti ...As Law Forbidding Grazing in Prohibited Areas is Signed into Law. <<http://ekitistate.gov.ng/2016/09/grazing-becomes-terrorism-in-ekiti-as-law-forbidding-grazing-in-prohibited-areas-is-signed-into-law/>> accessed 2 May, 2017

<sup>37</sup> Ameh Comrade Godwin, 'Fulani herdsmen vow to resist Benue Anti-Grazing Bill'. May 30, 2017.

<<http://dailypost.ng/2017/05/30/fulani-herdsmen-vow-resist-benue-anti-grazing-bill/>> accessed 22 June, 2017; Abbas Jimoh, 'Why we oppose anti-open grazing laws – Miyetti Allah' June 17, 2017

<<https://www.dailytrust.com.ng/news/viewpoint/why-we-oppose-anti-open-grazing-laws-miyetti-allah/202221.html#gePxxIeGjMzOQOSm.99>> accessed 22 June, 2017

<sup>38</sup> Section 17 3(c) of the Constitution

shall take the necessary measures to protect the health of their people. These provisions are to the effect that the government should make laws that protect the health and well-being of its citizens. Therefore, conditions and activities that jeopardise human health constitute a threat to their health and well-being and could be a violation of the right to health.

Studies have shown the relationship between chemical use in agriculture and health risks and safety in Nigeria.<sup>39</sup> The abuse or misuse of agrichemicals by farmers during production and storage of farm produce have had serious health effects in Nigeria.<sup>40</sup> Antibiotic residues have been discovered in meat from livestock with heavy concentrations found in the liver and other internal organs, that lead to antibiotics resistance.<sup>41</sup> Farmers, their workers and bystanders are exposed to the adverse effects of pesticides through selling, storing, transporting, application, spillage and disposal.<sup>42</sup> There have also been reported cases of food poisoning from use of chemical preservatives in Nigeria. The use of certain lethal preservatives in yam processing led to food poisoning among families in Kano State.<sup>43</sup> There was lead poisoning in Zamfara State which caused the death of dozens of infants and children.<sup>44</sup> There have also been allegations of ‘killer beans’ causing food poisoning due to the chemical used for its storage.<sup>45</sup> Carbide<sup>46</sup> is used by fruit sellers in Nigeria to quicken the ripening of fruits, notwithstanding its health implications<sup>47</sup>

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<sup>39</sup> See Adesokan, H.K et al. (2015). Pattern of antimicrobial usage in livestock animals in southwestern Nigeria: The need for alternative plans. *Onderstepoort Journal of Veterinary Research* 82(1), Art. #816. <http://dx.doi.org/10.4102/ojvr.v82i1.816>; Dipeolu, M.A et al. (2005) Comparison of effects of Antibiotics and Enzyme Inclusion in diets of laying birds. *Arch. Zootec.* 54: 3-11; Dahiru, B. and Abdullahi, G. and Bukar, N. (2014) Pesticides Use Among Grain Merchants in Mubi Grain Markets of Adamawa State, Nigeria. *Agrosearch (2014) Volume 14(1):1-13.*

<sup>40</sup> Omojokun, J. (2013). Regulation and Enforcement of Legislation on Food Safety in Nigeria, in *Mycotoxin and Food Safety in Developing Countries*, Dr. Hussaini Makun (Ed.), InTech, DOI: 10.5772/54423. Available from: <https://www.intechopen.com/books/mycotoxin-and-food-safety-in-developing-countries/regulation-and-enforcement-of-legislation-on-food-safety-in-nigeria>. p 251-52

<sup>41</sup> Dipeolu, M.A. and D.O. Alonge Residues of streptomycin antibiotic in meat sold for human consumption in some states of SW Nigeria, *Archivos de Zootecnia*, vol. 51, núm. 196, diciembre, 2002, pp. 477-480

<sup>42</sup> Ezirigwe, J.(2017) Legal and Policy Measures to Curtail Use of Harmful Agrichemicals in Nigeria in “Making Nigeria Work: Politics, Economics, Education, Health, Agriculture And Law” Edited by Durotoye Adeolu.. (Forth coming)

<sup>43</sup> Adewole, M.B. and Duruji, R.W. (2010) Quality assessment of plantain (*Musa paradisiaca* L.) as affected by different ripening methods. *African Journal of Biotechnology* Vol. 9(38), pp. 6290-6293, p6290

<sup>44</sup> Omojokun, J. (2013). Regulation and Enforcement of Legislation on Food Safety in Nigeria, in *Mycotoxin and Food Safety in Developing Countries*, Dr. Hussaini Makun (Ed.), InTech, DOI: 10.5772/54423. Available from: <https://www.intechopen.com/books/mycotoxin-and-food-safety-in-developing-countries/regulation-and-enforcement-of-legislation-on-food-safety-in-nigeria>. p 251-52

<sup>45</sup> Agbo, A.D.(2015). IITA holds seminar on nonchemical grain storage bags. Daily Trust. Retrieved from <https://www.dailytrust.com.ng/news/agriculture/iita-holds-seminar-on-nonchemical-grain-storage-bags/112160.html>

From the foregoing, it is obvious that the right to health of both the producers and consumers of agricultural produces farmed with harmful agrichemicals are threatened and violated and therefore require protection, with extant laws. The National Agency for Food and Drug Administration and Control (NAFDAC) is mandated to regulate the use of agrichemicals as they affect human consumption.<sup>48</sup> Following its power to make regulations under S. 30 (c) NAFDAC Act, the agency has made some regulations and drafted guidelines for registration and use of some agrichemicals. Some of these regulations are weak, unenforced and not adequate to ensure the safety of consumers who consume food produced with the use of agrichemicals.

For example, though paragraph D1 & 2 of Guidelines for Pesticide Registration in Nigeria<sup>49</sup>, provides for adequate labelling, considering the low literacy level of Nigerian farmers, there should be a requirement for precautionary diagrams to inform illiterate farmers adequately. More so, while it is required under Section 1 of Food Additives Regulations 2005<sup>50</sup> that food additive must have a label which carries a quantitative statement of the amount of each additive present, not in excess of the amount prescribed in the Codex standards for food additives, evidence exist to show that agricultural products are stored and sold with chemical preservatives without adequate labelling and warning especially by illiterate farmers and traders who may not even be aware of Codex standards for food additives while they apply food colours and preservatives. Though Section 6 of the Regulation prohibits the sale of food additives in excess of Codex standards and there is a penalty for contravening this rule under Section 11, it remains to see violators being prosecuted by the agency.

### ***3.3 Rights to clean water and a healthy environment***

‘The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.’<sup>51</sup> Article 24 of the ACHPR provides that all peoples shall

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<sup>46</sup> Calcium carbide has cancer-causing properties and is capable of causing neurological disorders. See ‘[Ban the use of carbide gas to ripen fruits.](https://www.consumer.org.my/index.php/food/safety/502-ban-the-use-of-carbide-gas-to-ripen-fruits)’ Retrieved from <https://www.consumer.org.my/index.php/food/safety/502-ban-the-use-of-carbide-gas-to-ripen-fruits>

<sup>47</sup> We only use carbide to ripen fruits – Association. (May 23, 2017). Vanguard Newspaper. Retrieved from <http://www.vanguardngr.com/2017/05/use-carbide-ripen-fruits-association/>

<sup>48</sup> Section 5 of NAFDAC Act

<sup>49</sup> Guidelines For Pesticide Registration In Nigeria NAFDAC/RR/008/00. [http://www.nafdac.gov.ng/images/GUIDELINES/CHEMICALS%20GUIDELINES/GUIDE36\\_GUIDELINES%20FOR%20PESTICIDE%20REGISTRATION%20IN%20NIGERIA.pdf](http://www.nafdac.gov.ng/images/GUIDELINES/CHEMICALS%20GUIDELINES/GUIDE36_GUIDELINES%20FOR%20PESTICIDE%20REGISTRATION%20IN%20NIGERIA.pdf)

<sup>50</sup> <http://www.nafdac.gov.ng/index.php/regulation/food-regulations>

<sup>51</sup> Section 20 of the Constitution

have the right to a general satisfactory environment favourable to their development. These provisions impose a duty on the Nigerian government to protect the environment and prevent the creation of environmental conditions that will be hazardous to human life. In discharging this duty, the National Environmental Standards and Regulations Enforcement Agency (NESDREA) was established and empowered under Section 7a & c of NESDREA Act, to enforce compliance with laws, guidelines, policies and standards, including international conventions on environmental matters, chemicals, hazardous wastes, marine and wild life, pollution, sanitation and such other environmental agreement.<sup>52</sup>

This Act is very important in protecting the rights to clean water and a healthy environment. This is necessary as recent studies in Nigeria have shown that agricultural activities, products and wastes now constitute one of the major causes of water pollution.<sup>53</sup> Pesticides, fertilizers, and herbicides contain harmful substances that runoff and contaminate surface and ground water sources. Animal and plant wastes that are indiscriminately disposed obstruct the flow of water bodies. Inefficient agricultural activities in soil tillage and deforestation activities release particles into water sources that reduce the quality of water from these sources and degrade the environment.

Presently, there are few cases that have dealt with the enforcement of the right to a clean and healthy environment in Nigeria. In the case of *Jonah Gbemre v. Shell Petroleum Development Company (SPDC) & Others*,<sup>54</sup> the Court held that the actions of the Respondents in continuing to flare gas in the course of their oil exploration activities in the applicants' community amounted to a gross violation of their fundamental rights to life including their rights to a healthy environment and dignity of the human person, as

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<sup>52</sup> The Rotterdam Convention and the Stockholm Convention are some important international instruments with regards to reducing the risk associated with pesticide use. See <http://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx> and [http://www.pops.int/documents/convtext/convtext\\_en.pdf](http://www.pops.int/documents/convtext/convtext_en.pdf), respectively.

<sup>53</sup> Aboyeji, Oyebanji Oluseun, Freshwater Pollution in Some Nigerian Local Communities, Causes, Consequences and Probable Solutions Academic Journal of Interdisciplinary Studies MCSER Publishing, Rome-Italy Vol 2 No 13 December 2013 11, E-ISSN 2281-4612 ISSN 2281-3993 1, Lawrence Chidi Anukam, Water Pollution Control - A Guide to the Use of Water Quality Management Principles Edited by Richard Helmer and Ivanildo Hespanhol Published on behalf of the United Nations Environment Programme, the Water Supply & Sanitation Collaborative Council and the World Health Organization by E. & F. Spon 1997 WHO/UNEP ISBN 0 419 22910 8 Case Study IV - Nigeria, Galadima A., Garba Z.N., Leke, L., Almustapha, M.N. and Adam, I.K (2011) Domestic Water Pollution among Local Communities in Nigeria: Causes and Consequences. European Journal of Scientific Research. Euro-Journals Publishing Company. Available on line at <http://www.eurojournals.com/ejsr.htm>, Akinro, A. O . Oloruntade, A. J. and Imoukhuede, O. B, Impacts of Agricultural Wastes on Groundwater Pollution in Lipakala Farms, Ondo Southwest Nigeria, Journal of Environment and Earth Science ,ISSN 2224-3216 (Paper) ISSN 2225-0948 (Online) Vol 2, No.4, 2012.

<sup>54</sup> Suit No. FHC/B/CS/53/05

guaranteed under sections 33 and 34 of the Nigerian Constitution and Articles 16 and 24 of the ACHPR. The Defendants had argued, though not to the satisfaction of the court, that gas flaring could not constitute a human rights violation since it was permitted under Nigerian law.<sup>55</sup>

However, in *Okpala v. SPDC*,<sup>56</sup> the court in reaching its decision refused to be persuaded by the decision in the earlier case of *Gbemre v. SPDC*, by holding that the rights to life and dignity guaranteed under sections 33 and 34 of the Constitution cannot be claimed by a community but by each person in the community who feels that his individual right has been infringed upon. It also held that the applicants could not maintain action in a representative suit as there was no common grievance or common benefit. This position of the court clearly depicts a barrier to the judicial enforcement of environmental rights in Nigeria. By insisting that aggrieved individuals must personally enforce their individual human rights, this decision implies that where individuals in a community or locality are generally disturbed by environmental pollution and subsequently seek to enforce their rights to a clean environment, they can only do so individually, even where the vast majority of people affected by the environmental pollution are too poor to meet the financial requirements of individually litigating their environmental rights. This precedent can therefore discourage judicial recourse, by victims, against the perpetrators of environmental pollution.<sup>57</sup>

Businesses in the agricultural sector should notwithstanding the decision of this latter case, uphold Principles 7, 8 and 9 of the UN Global Compact which state that businesses should support a precautionary approach to environmental challenges; undertake initiatives to promote greater environmental responsibility; and encourage the development and diffusion of environmentally friendly technologies, respectively.

### ***3.4 Labor rights and safety standards***

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<sup>55</sup> Orji, U.J., 2012. Nigeria: Right to a Clean Environment - Some Reflections -. *Environmental Policy and Law*, 42(4), pp. 285-293

<sup>56</sup> Suit No. FHC/PHC/C5/518/2006 of 29 September, 2006.

<sup>57</sup> Orji, U.J., 2012. Nigeria: Right to a Clean Environment - Some Reflections -. *Environmental Policy and Law*, 42(4), pp. 285-293

The International Labour Organisation (ILO) says that ‘at least 170,000 agricultural workers across the world are killed at work each year.’<sup>58</sup> Workers in agriculture run twice the risk of dying on the job compared to workers in other sectors.<sup>59</sup> Millions more are seriously injured in workplace accidents involving agricultural machinery or are poisoned by chemicals. In Nigeria, agriculture is one of the main locations of child labour because of the poverty faced by rural communities. Women workers face reproductive hazards, including spontaneous abortion, as a result of exposure to pesticides,<sup>60</sup> and face significant discrimination in rural labour markets, where men are paid more than women for the same work load.<sup>61</sup>

A workshop by the Agriculture and Allied Employees’ Union of Nigeria<sup>62</sup> in December 2011, at a state-owned palm oil company in Nigeria where over 2,000 workers live and work, revealed types of accidents or illnesses the workers had experienced as a result of their work. Fatalities and injuries resulting from falling palm fruits, losing a finger from an accident with machinery, and a man who was blinded by acid but was simply sacked by management without any compensation were reported.<sup>63</sup> Unfortunately too, children in Nigeria are engaged in the worst forms of child labor in rural areas, where most children work in agriculture, using dangerous tools, carrying heavy loads and working long hours for very little or no pay.<sup>64</sup> Children in Nigerian riverine communities are engaged in fishing. Many of

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<sup>58</sup> Celia Mather. Safe farms, safe workers, safe communities: Improving occupational health, safety and environmental standards on plantations and farms in Africa. March 2015. P2

<http://www.iuf.org/w/sites/default/files/2015%20Safe%20Farms%2C%20Safe%20Workers.pdf>

<sup>59</sup> Key hazards for workers in agriculture and horticulture include: chemical risks from pesticides and fertilisers; physical risks from hazardous machinery, tools, many are made to bend for long hours, or lift heavy loads without proper equipment; this can lead to muscular or skeletal damage; biological risks from long exposure to extremely high temperatures in greenhouses which can cause fatigue and dehydration that may lead to heat stroke. Some workers also take discarded chemical containers (drums) home for water storage. See Celia Mather. Safe farms, safe workers, safe communities: Improving occupational health, safety and environmental standards on plantations and farms in Africa. March 2015. P2

<sup>60</sup> Celia Mather. Safe farms, safe workers, safe communities: Improving occupational health, safety and environmental standards on plantations and farms in Africa. March 2015. P2

<http://www.iuf.org/w/sites/default/files/2015%20Safe%20Farms%2C%20Safe%20Workers.pdf>

<sup>61</sup> See Journal of Agricultural Extension Vol. 16 (1), June 2012 Gender differentiation in Daily Farm Wage Rates in Abuja, Nigeria Ajah Julius. <https://www.ajol.info/index.php/jae/article/viewFile/84504/74506>

<sup>62</sup> Part of the Global Strategies in Health and Safety, a project in Africa geared towards safe working conditions for workers in agricultural and horticultural industry.

<sup>63</sup> Celia Mather. Safe farms, safe workers, safe communities: Improving occupational health, safety and environmental standards on plantations and farms in Africa. March 2015. P19

<http://www.iuf.org/w/sites/default/files/2015%20Safe%20Farms%2C%20Safe%20Workers.pdf>

<sup>64</sup> B.O. Lawal and O. Akintayo, “Children Participation in Vegetable Production and Associated Hazards in Oyo State: Nigeria: Implications for Poverty Alleviation and Extension,” Journal of Applied Sciences Research 3, no. 6 (October 13, 2007), 445-448; available from <http://www.insipub.com/jasr/2007/444-449.pdf>. See also A.E.Adeokoya and O.O. Fasine, “Occupational Safety Needs of Farm Children in South West Nigeria,” Pakistan Journal of Social Sciences 4, no. 1 (2007), 19-21.

these children work long hours processing fish and are at risk of drowning and waterborne diseases.<sup>65</sup>

These are notwithstanding certain provisions that seek to protect and ensure labor and safety standards. Section 17 (3) of the Nigerian Constitution provides that the State shall direct its policy towards ensuring that conditions of work are just and humane; the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused; and that there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever. Article 23 of UDHR provides that everyone has the right to favourable conditions of work; and without any discrimination, have the right to equal pay for equal work. Article 15 of ACHPR provides that every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work. Articles 6 and 7 of ILO Convention 184<sup>66</sup> seek to “ensure the safety and health of workers; mandate employers to carry out appropriate risk assessments in relation to the safety and health of workers and adopt preventive and protective measures. The Workmen Compensation Act, 2010 guarantees a fair system and adequate compensation for all employees in the agriculture sector or their dependants for any death, injury, disease or disability arising out of or in the course of employment.<sup>67</sup>

Unfortunately however, the Labor Act allows child labour in agriculture by family members.<sup>68</sup> This provision is usually abused to encourage all sorts of child labour in the agricultural sector. Neither Nigeria’s Labor Act nor the Child Rights Act lays out a comprehensive list of hazardous activities prohibited to children nor do they establish a clear minimum age for hazardous work.<sup>69</sup> Unfortunately too, many agricultural workers are employed on a casual basis, which allows their employers to circumvent their legal responsibilities to the workers.<sup>70</sup>

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<sup>65</sup> United States Department of Labor, *2010 Findings on the Worst Forms of Child Labor - Nigeria*, 3 October 2011, p571 available at: <http://www.refworld.org/docid/4e8c398827.html> [accessed 27 June 2017]

<sup>66</sup> C184- Safety and Health in Agriculture Convention, 2001

<sup>67</sup> Sections 1 and 2(1)

<sup>68</sup> Section 59 (1) of Labour Act.

<sup>69</sup> Celia Mather. Safe farms, safe workers, safe communities: Improving occupational health, safety and environmental standards on plantations and farms in Africa. March 2015. P2

<http://www.iuf.org/w/sites/default/files/2015%20Safe%20Farms%2C%20Safe%20Workers.pdf>

<sup>70</sup> Celia Mather. Safe farms, safe workers, safe communities: Improving occupational health, safety and environmental standards on plantations and farms in Africa. March 2015. P2

<http://www.iuf.org/w/sites/default/files/2015%20Safe%20Farms%2C%20Safe%20Workers.pdf>

### *3.5 Effect of corruption on right to food*

Human rights can be constrained by corrupt practices. Occasionally, corruption can result to human rights violations even where it will not itself violate a human right.<sup>71</sup> Corruption will be deemed to violate human rights in an implicit manner, when a corrupt system constitutes a crucial contributing factor in a chain of events that eventually leads to a violation of a right.<sup>72</sup> For example, the right to food,<sup>73</sup> of the community is threatened by corrupt practices in the agricultural sector in Nigeria. The right to food requires States to provide an enabling environment in which people can use their full potential to produce or procure adequate food for themselves and their families.<sup>74</sup> There have however, been allegations of corruption in the fertilizer distribution chain to rural farmers in Nigeria,<sup>75</sup> which lead to decreased food production, increased cost of production and invariably increase in scarcity and food prices. This will affect food availability and affordability, key factors in food security.

The government of Nigeria has formulated several good agricultural policies targeted to boost food production but such policies have been found inefficient and unproductive due to corrupt cliques, making the envisioned results of the policies unattainable.<sup>76</sup> Corrupt conspiracy between government officials and private sector in licensing and supply of agricultural deliveries; undelivered goods and high prices abound.<sup>77</sup> The irregular and poor payment of agricultural workers in the employment of the government informs the reason for the upsurge of corrupt behaviours in the country. For instance the extension officers are lowly

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<sup>71</sup> Bacio-Terracino, J., Ngugi, J.M. and Obiora, L.A., 2010. Corruption And Human Rights, Mar 2010, American Society of International Law, pp. 243-254

<sup>72</sup> Bacio-Terracino, J., Ngugi, J.M. and Obiora, L.A., 2010. Corruption And Human Rights, , Mar 2010, American Society of International Law, pp. 243-254

<sup>73</sup> As provided for in S.16 (2) (d) of the 1999 Constitution, Article 25 of UDHR,

<sup>74</sup> The Right to Adequate Food Fact Sheet No. 34'.  
<[www.ohchr.org/Documents/Publications/FactSheet34en.pdf](http://www.ohchr.org/Documents/Publications/FactSheet34en.pdf)> accessed 8 November 2015, 3

<sup>75</sup> Tina A. Hassan 25 OCTOBER 2010. Daily trust. Nigeria: There is Corruption in Agriculture Sector – Minister. <http://allafrica.com/stories/201010250546.html>

<sup>76</sup> Addressing Corruption Practices in Agricultural Sector to Make Agriculture Demand-driven in Nigeria Godson-Ibeji, C. C. Ogueri, E.I. and Chikaire, J. U. Journal of Agricultural Economics, Extension and Rural Development: ISSN-2360-798X, Vol. 4(8): pp, 543-547, November, 2016. P 546  
<http://www.springjournals.net/full-articles/springjournals.netjaerdarticlesindex=11godson-ibejietal.pdf?view=inline>

<sup>77</sup> Addressing Corruption Practices in Agricultural Sector to Make Agriculture Demand-driven in Nigeria Godson-Ibeji, C. C. Ogueri, E.I. and Chikaire, J. U. Journal of Agricultural Economics, Extension and Rural Development: ISSN-2360-798X, Vol. 4(8): pp, 543-547, November, 2016. P 545  
<http://www.springjournals.net/full-articles/springjournals.netjaerdarticlesindex=11godson-ibejietal.pdf?view=inline>

paid by the government giving room for corrupt practices.<sup>78</sup> The Nigerian Agricultural Transformation Agenda's introduction of e-wallet through mobile phones has been claimed to have boosted food production and saved billions of naira.<sup>79</sup>

Principle 10 of the UN global Compact enjoins businesses to work against corruption in all its forms, including extortion and bribery. This is a point to bear in mind as large scale agricultural activities start.

#### ***4.0 ROLE OF THE LAW IN ADDRESSING INJUSTICE IN AGRI-BUSINESSES***

The rule of law theory requires that clear laws are made public for the governance of activities of the citizens. Governments must therefore make adequate and explicit laws. This must be followed by proper implementation by government agencies and where the situation arises, interpreted by judges and arbitrators. It must nonetheless be noted that land, a key factor in agriculture is vested with the state government.<sup>80</sup> Agriculture and grazing are in the domain of the state and local governments.<sup>81</sup> Therefore, laws governing agricultural activities with regards to these can only be legislated upon by the different State Houses of Assembly. Health, environmental, labour and safety matters should be legislated upon by the National Assembly for the whole country.<sup>82</sup>

Following this and the need to preserve public safety and order, any State House of Assembly can validly enact a law on grazing or agricultural use of land, as provided under the

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<sup>78</sup> Addressing Corruption Practices in Agricultural Sector to Make Agriculture Demand-driven in Nigeria Godson-Ibeji, C. C. Ogueri, E.I. and Chikaire, J. U. Journal of Agricultural Economics, Extension and Rural Development: ISSN-2360-798X, Vol. 4(8): pp, 543-547, November, 2016. P 545  
<http://www.springjournals.net/full-articles/springjournals.net/jaeerdarticlesindex=11godson-ibejietal.pdf?view=inline>

<sup>79</sup> I Reduced Corruption in Agricultural Sector with a Simple Phone-Jonathan. June 7, 2016.  
<https://www.pmnewsnigeria.com/2016/06/07/i-reduced-corruption-in-agricultural-sector-with-a-simple-phone-jonathan/>

<sup>80</sup> Section 1 of the Land Use Act provides that subject to the provisions of this Act, all land comprised in the territory of each State in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act. Section 315 (5) of the Constitution which provides that nothing in this Constitution shall invalidate the Land Use Act.

<sup>81</sup> See Second Schedule Part II Paragraphs 18 & 20 which provides that subject to the provisions of this Constitution, a House of Assembly may make Laws for that State with respect to industrial, commercial or agricultural development of the State, including fisheries; Fourth Schedule Paragraph 2(b). Sections 1, 2 and 6 of the Land Use Act.

<sup>82</sup> See First Schedule Part I Paragraph 34; Second schedule Part II Paragraph 17, Second schedule Part II Paragraph 60.

Constitution.<sup>83</sup> Effective prosecution of offences in these laws will help to deter offenders. For the law on grazing, given the mobile movement cycle of the herders, mobile courts are more likely to be more effective in bringing justice in order to avoid excessive delays, which make parties resort to self-help. If the mobile courts can handle the smaller offences, they would not escalate to more serious offences.<sup>84</sup>

The laws on use of agricultural chemicals are weak and not explicit on recommended thresholds. A major setback in the laws to adequately address injustice in the agricultural sector is lack of implementation. There is lack of political will and absence of synergy between the overlapping institutions that are mandated to supervise food safety, hazardous chemical use and environmental matters. The proliferation of regulatory agencies without explicit focus on the inevitable overlapping functions will lead to conflict, confusion and reduce the chances of law enforcement. Therefore, there is need for a coordinated synergy amongst these agencies. Public campaigns on the harmful effects of chemicals like carbide should be embarked on to make the trading and consuming public aware and Integrated Pest Management techniques should be promoted.<sup>85</sup> The National Biosafety Management Agency should also ensure the safety of genetically modified products that are allowed into Nigeria, so as not to adversely affect the health of Nigerians.

There is an implementation problem with NESDREA in enforcing compliance with laws, guidelines, policies and standards on environmental matters, chemicals, hazardous wastes, marine and wild life, pollution and sanitation. Effective implementation and prosecution of offenders will deter pollutants. Adequate budgetary allocations should also be provided in percentages, to enable the agency carry out its mandate.

As regards labour and safety standards, there is need to amend the Labor Act to make the minimum age, and provisions related to light work, adapt to international standards. The differing and inconsistent provisions in the Child Rights Act and the Labor Act with regard to

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<sup>83</sup> Ezirigwe J, National Security, Internal Displacement and Food Insecurity - Exploring the Regulatory Regime Governing Farmers-Herders Conflicts, paper presented at the National Association of Law Teachers Conference, 2017.

<sup>84</sup> Ezirigwe J, National Security, Internal Displacement and Food Insecurity - Exploring the Regulatory Regime Governing Farmers-Herders Conflicts, paper presented at the National Association of Law Teachers Conference, 2017.

<sup>85</sup> Ezirigwe, J, (2017) Legal and Policy Measures to Curtail Use of Harmful Agrichemicals in Nigeria in "Making Nigeria Work: Politics, Economics, Education, Health, Agriculture and Law" Edited by Durotoye Adeolu., 2017. (Forth coming)

definitions and ages of a child should be addressed.<sup>86</sup> The Labour Act prohibits different activities for different ages of a child or young child.<sup>87</sup> It prohibits children from engaging in industrial undertakings but allows them to engage in agriculture. This will mean that without any explicit provision, a child can validly engage in the use of pesticides, which though harmful to the child, can be qualified as being an activity in agriculture and not an industrial undertaking.<sup>88</sup> This is notwithstanding the section that prohibits any activity that is injurious or dangerous to a young person's health,<sup>89</sup> as this provision does not cover a child that is involved in such an activity. Therefore, a child of fifteen years can legally engage in spraying pesticides, an agricultural activity that is dangerous to his health. Consequently, a comprehensive list of hazardous undertakings prohibited to minors and a specific age for hazardous work should be published and widely circulated, especially in the local languages. There is also a need to toughen penalties for child labor violations.<sup>90</sup>

The action of the Chief Justice of Nigeria in 2009 to restructure the procedures for enforcing the fundamental human rights enshrined in Chapter IV of the 1999 Constitution of Nigeria by establishing the Fundamental Rights (Enforcement Procedure) Rules of 2009 is commendable. The new Rules now stipulate that "rights" there will include any of the rights provided for in Chapter IV of the Constitution, as well as any of the rights specified in the African Charter, the Universal Declaration of Human Rights and other instruments in the United Nations human rights system.<sup>91</sup> A significant development under the new Rules has been its recognition of the use of public interest litigation in the actualisation of the human rights. Accordingly, it provides that:

‘The court shall encourage and welcome public interest litigations in the human rights field and no human rights case may be dismissed or struck out for want of locus standi. In

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<sup>86</sup> Section 91 (1) of Labour Act provides that "child" means a young person under the age of twelve years while Section 277 of the Childs Right Act provides that "child" means, a person under the age of eighteen years; However, the Labour Act defines "young person" to mean a person under the age of eighteen years.

<sup>87</sup> See generally Section 59 of the Labour Act

<sup>88</sup> Section 91 (1d) of the Labour Act excludes agricultural undertaking from the definition of industrial undertakings.

<sup>89</sup> Section 59 (6) of Labour Act

<sup>90</sup> United States Department of Labor, *2010 Findings on the Worst Forms of Child Labor - Nigeria*, 3 October 2011, p576 available at: <http://www.refworld.org/docid/4e8c398827.html> [accessed 27 June 2017]

<sup>91</sup> See Preamble 3 (a, b (i and ii)) of Fundamental Rights (Enforcement Procedure) Rules (2009).

particular, human rights activists, advocates, or groups as well as any non-governmental organizations, may institute human rights application on behalf of any potential applicant.<sup>92</sup>

It further provides that in a human rights litigation, the applicant may include anyone acting in his own interest; anyone acting on behalf of another person; anyone acting as a member of, or in the interest of, a group or class of persons; anyone acting in the public interest; and an association acting in the interest of its members or other individuals or groups.<sup>93</sup>

With the recognition of the concept of public interest litigation under the Fundamental Rights (Enforcement Procedure) Rules, it has now become easier for individuals, communities and non-governmental organisations to enhance the realisation of the rights to health, food, clean water and healthy environment under the African Charter.<sup>94</sup>

Therefore, communities can institute actions and challenge pollution of their environments by agricultural activities.

## **5.0 CONCLUSION AND RECOMMENDATION**

Before large scale agricultural businesses overwhelm the agricultural sector, there is need to contemplate the adequacy of current regulation in the sector and ensure proper implementations so as to avoid adverse effects of agricultural activities on the life, health and environment of Nigerians. Human rights abuses have been identified as they currently happen today, and this allows for projections on what areas need to be toughened in the nearest future to come.

Existing regulatory agencies should synergise in a coordinated effort to allow efficiency, reduce corruption and hold human right violators accountable. With regards to right to life and property, especially as it concerns farmer-herders conflicts, existing state laws should be implemented, and offenders should be prosecuted by the law enforcement agencies.<sup>95</sup> New

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<sup>92</sup> See Preamble 3 (e) of Fundamental Rights (Enforcement Procedure) Rules (2009).

<sup>93</sup> *Ibid*

<sup>94</sup> Orji, U.J., 2012. Nigeria: Right to a Clean Environment - Some Reflections -. *Environmental Policy and Law*, 42(4), pp. 285-293

<sup>95</sup> There is an argument on which particular law enforcement agency is principally mandated to tackle the farmers-herders conflict. See Ezirigwe J, National Security, Internal Displacement and Food Insecurity -

laws should be promulgated in states where they do not exist. The NAFDAC and NABMA are agencies primarily to regulate the safety of food and GMOs, so that they do not constitute health challenges for the public. They must live up to their mandate by partnering with other key agencies and ministries, including state and local government authorities.

The NESDREA should enforce compliance with environment standards especially with regards to pesticide use; air, water and land pollution. The public interest litigation allowed by the new Fundamental Rights Procedure Rules should be exploited, in bringing violators of healthy environment rights to justice. The principles in the UN Global Compact and the SDG goals on the environment should be incorporated in doing agricultural businesses in Nigeria.

The Nigeria Social Insurance Trust Fund should enforce adequate compensation for injured or dead agricultural workers. The labour organisations should create awareness on members on labour and safety standards required. The women and child rights groups should expose discriminatory practices and child abuses as they occur in the sector. The general public should be conscious of and demand for accountability in contracts for supply of agricultural deliverables to farmers.

An efficient and fair judicial system must exist to serve as the final arbiter where there is ambiguity in laws, agricultural disputes or allegations of corruption in the agricultural sector. Adequate legal framework to regulate activities with an efficient judicial system will improve the lives and health of employees in the sector, mitigate environmental degradation, which ultimately affects doing business as well as promote investor confidence in the sector. These will create an enabling environment for worker's productivity to increase, agricultural businesses to flourish and large scale agricultural investments to be attracted to ensure that food is produced, processed and promoted in Nigeria in a sustainable manner, unrestricted by human wrongs.