Law and Climate Change in Nigeria



Edited by:
Wahab Olasupo Egbewole
Muhtar Adeiza Etudaiye
Olugbenga Ajani Olatunji

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A CONCEPTUAL FRAMEWORK FOR CLIMATE CHANGE AND THE RIGHT TO HEALTH IN NIGERIA

BY

*DAUDA ADEYEMI ARIYOOSU**

*MUBARAK TIJANI ADEKILEKUN***

"We can't cure the planet, we haven't the power, but we just might be able to make it go into reverse phase and cure itself".[1038]

ABSTRACT

So great is the perceived threat of global warming that it has been variously described as a unique challenge and a more serious threat than global terrorism. Nigeria is one of the countries at risk. It is vulnerable to risks such as disruptions of water supply; increases in the severity of storms, floods and droughts, coastal erosion due to sea level rise; and to negative human health. Climate change has many interfaces with human rights. To refer to just a few examples, climate change relates to the right to life, right to health, the right to property and the right of indigenous people.

This paper therefore seeks to trace the history and human health dimension of climate change. It also looks at how the rights contained in the key international instruments are threatened by the impacts of climate change. It then goes on to

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1038 *Letter from Lovelock J.E. and Rapley C.G., 'Ocean Pipes Could Heap the Earth to Cure Itself', Nature, 449 (September 27 2007) , p. 403 Quoted from Watchman P.Q., A Guide to Carbon Law and Practice (Globe Business Publishing Ltd, London 2008) p. 7.*

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consider what obligations are imposed on Nigeria in both international and domestic laws, to respond to these threats.

1.1 HISTORICAL BACKGROUND

Green House Gases are gases which control energy flows in the earth's atmosphere by absorbing infrared radiation and which reduce the loss of heat into space. They are essential in maintaining the temperature of the earth. They have both natural and anthropogenic sources. Global Green House Gases emissions due to human activities have grown since the pre-industrial times, with an increase of 70% between 1970 and 2004.[1039]

It is important to mention that the effect of GHGs on global warming has been long accepted. It is now over 100 years since global warming was officially discovered by Svante Arrhenius, who is credited with recognizing the effects of GHGs on the atmosphere in 1886[1040]. To put this in historical context, in that year, Queen Victoria became the longest reigning British monarch, William McKinley became president of the United States and the shortest war in world history, the Anglo-Zanzibar war, was concluded in 38 minutes. This was also a year of severe weather condition. In May and August, respectively, the costliest tornado in the history of the United States levelled St. Louis in Missouri, killing more than 250 people[1041] and a tsunami and earthquake devastated Japan killing more than 22,000 people.[1042]

The twentieth century, punctured by two world wars and global recessions, was a period of rapid economic expansion and population growth. However, such expansion and growth in many western countries was brought at the cost of water pollution and declining air quality. In some places, serpents of smoke spiralled to the heavens, those urban sources of disease and effluvia in turn gave way to an age of coal, steam, mass electricity light, gas and electric heating and the automobile, all fuelled by what seemed to be inexhaustible and cheap sources of energy supply.

1039 *Watchman, ibid, p. 10.*
1040 *Arrhenius S., 'On the Influence of Carbonic Acid in The Air upon the Temperature of the Ground', Philosophical Magazine and Journal of Science, 41 (1896), pp. 237-276.*
1041 *See <www.usgennet.org/usa/mo/county/stlouis/cyclone.htm> accessed on 5 April 2010.*
1042 *See <www.agu.org/sci_soc/sanriku.html> accessed 5 April 2010.*

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With advances in technology came an age dominated by the careless and prodigious use of fossil fuels. Year after year, as air quality declined, respiratory diseases and death increased. In London, killer smog led to clean air legislation in the 1950s and there were also threats of serious risks of disease or death to those living and working in the industrial areas in India, China and the United States of America.

After the discovery of the depletion of the Ozone layer (with the societal and political interests in the topic) which culminated in the Stockholm Conference in 1972, the signing in 1985 of the Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, it was obvious that it was time for Climate Change. In 1988, the IPCC[1043] was established, with its first report being released in 1990. In 1992, the UNFCCC[1044] was signed at the Rio Earth Summit. It represented the creation of the first international law climate change instrument.

The second international law mechanism, the Kyoto Protocol, was adopted under the framework Convention in 1997 and came into force in 2005.[1045] The Kyoto Protocol sets out binding targets for developed countries for the reduction in GHGs in a first commitment period between 2008 and 2012, when it expired. The Kyoto Protocol introduces three flexible mechanisms: the Clean Development Mechanism (CDM), Joint Implementation (JI) and International Emissions Trading.[1046]

2.1 EFFECT OF CLIMATE CHANGE ON HUMAN HEALTH.

As early as 2000, the World Health Organization attributed 2.4 per cent of worldwide diarrhea and 6 per cent of malaria cases to climate change. The first large scale,

1043 *Intergovernmental Panel on Climate Change (IPCC) established by the United Nations Environmental Programme and the World Meteorological Organization. It was created due to increasing concerns regarding the possibility of global warming. The most important aim of IPCC is the continued assessment of the state of knowledge on the various aspects of climate change, its multiple impacts and response strategies. See generally Intergovernmental Panel on Climate Change <http://en.wikipedia.org/wiki/Intergovernmental_panel_climate_change> accessed 25 April 2010.*

1044 *United Nations Framework Convention on Climate Change of 1992.*

1045 *Under the Kyoto Protocol, the European Union agreed to reduce GHG emissions by 8% below 1990 levels during the commitment period of 2008 to 2012, a target which was shared among the 15 member states prior to enlargement. Under Council Decision 2002/358/EC of April 25, 2002, a burden-sharing agreement was also established setting different targets for each of the member states. The new member states, except for Cyprus and Malta, which do not have any commitments, have individual targets under the Kyoto Protocol.*

1046 *Watchman, op. cit, p. 12.*

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quantifiable impacts on human health are likely to be changes to the geographic range and seasonality of some infectious diseases, including vector-borne infections such as malaria and dengue fever and food borne infections. However, the future public health consequences loom even larger. Much attention is focused on rising sea levels and areas which face inundation - a situation which could drive mass people movements. But, what of the wider scale disruption to food production with changing rainfall patterns, including longer droughts and more intense floods, and the consequent economic losses and food shortages forcing mass migration and exacerbating civil strife? The "World Development Report 2010: Development and Climate Change", released in advance of the UN, Climate Change Conference in Copenhagen in December 2009, cites evidence that global warming of 2°C above pre-industrial temperatures could, for example, result in permanent reductions in annual per capita consumption of 4 to 5 per cent in Africa, already the world's most vulnerable continent.

Climate variability is a feature of Africa's history, but the frequency and severity of both floods and droughts have increased sharply in recent years, and climate projections indicate that this trend will intensify. This is likely to have devastating consequences for rain-fed agriculture, which employs about 70 per cent of Africa's population, the report says.

An earlier World Bank report notes, "[the world's] poor communities will be especially vulnerable. They tend to have limited adaptive capacities and are much more dependent on climate-sensitive resources such as local water and food supplies." The Intergovernmental Panel on Climate Change has estimated that between 75 and 250 million people will be exposed to increased water stress due to climate change by 2020, most of them in poor countries already facing multiple health challenges.

3.1 HUMAN RIGHTS DIMENSIONS OF CLIMATE CHANGE.

The modern human rights system is founded in International Law. It traces back to, and is based upon the Universal Declaration of Human Rights (UDHR) which was

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adopted by the General Assembly of the United Nations on 10th December, 1948.[1047] The human rights enshrined in the UDHR have been further articulated in subsequent human right treaties, most relevant among which are the International Covenant on Civil and Political Rights (ICCPR) [1048] and the International Covenant on Economic, Social and Cultural Rights (ICESCR).[1049]

However, as the major human rights treaties were developed before climate change was understood to be a looming threat to human security, the health and environmental dimensions of these rights have not been extensively articulated and the precise connection between climate change and the international human rights law system is as yet underdeveloped.[1050]

4.1 THE RIGHT TO LIFE.

Climate change can have both a direct and indirect impact on human life. The effect may be immediate, as in the aftermath of climate change induced extreme weather or may appear gradually, as deterioration in health, susceptibility to diseases and it may also lead to death.

The right to life is protected under both the international legal instruments[1051] and the Constitution of the Federal Republic of Nigeria, 1999.[1052] Article 3 of the UDHR provides, 'Everyone has the right to life, liberty and security of person'. Article 6(1) of the ICCPR also provides:

> *Every human being has the inherent right to life. This right shall be protected by law. No person shall be arbitrarily deprived of his right.*

1047 *Universal Declaration of Human Rights, GA Resolution 217A(III), UN Doc A/810 at 71 (1948).*

1048 *International Covenant on Civil and Political Rights, which entered into force on 23 March, 1976.*

1049 *International Covenant on Economic, Social and Cultural Rights, which entered into force on 3nd January 1976.*

1050 *<www.hreo.gov.au/about/media/papers/hrandclimate_change.html> accessed 20 April 2010.*

1051 *Particularly the (UDHR) and the (ICCPR).*

1052 *Cap. C23 Laws of the Federation of Nigeria 2004.*

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Also, the Constitution of the Federal Republic of Nigeria 1999 provides in Section 33 thereof:

> *Every person has a right to life, and no one shall be deprived intentionally of his life save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria*

In its general comment, the United Nations Human Right Committee warned against interpreting the right to life in a narrow sense.[1053] It stated that protection of this right requires the state to take positive measures and that '*it would be desirable for state parties to take all positive measures to reduce infant mortality and to increase life expectancy...*' (Emphasis added)[1054]

5.1 THE RIGHT TO HEALTH

Article 25 of the UDHR states that '*everyone has the right to a standard adequate for the health and well-being of himself and his family*'. *Article* 12(a) of the ICESCR recognizes the right of everyone '*to the enjoyment of the highest standard of physical and mental health*'. The right to health is also referred to in a number of articles in the CRC. Article 24 stipulates that state parties must ensure that every child enjoys the '*highest attainable standard of health*'. It further stipulates that every child has the right to facilities for the treatment of illness and rehabilitation of health.

Section 17(3)(c) of the 1999 Constitution provides further that '*the health, safety and welfare of all persons are safeguarded and must not be endangered or abused*'. It should be stressed further that similar provisions are also contained in African Charter on Human and People's Right which has been ratified by the Federal Republic of Nigeria.

Climate Change poses significant risks to the right to health. It will have many impacts on human health. It will affect the intensity of a wide range of diseases- vector-borne, water-borne, and respiratory. A study by Dan Smith and Janani Vivekananda,[1055] for example, highlights four key elements of risks- political

1053 *See footnote 13.*
1054 *UN Human Right Committee, General Comment No.6 the right to life (1982) UN Doc HRI/Gen/1/Rev.7 at 128, at paras 1 and 5.*
1055 *See Watchman, op. cit, p. 18.*

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instability, economic weakness, food insecurity and large-scale migration. The study identifies a group of 46 countries in which the effects of climate change interacting with economic, social and political problems will create a high risk of violent conflict. Second, a group of 56 countries was identified, in which the interaction of climate change and other factors create a high risk of political instability, with a potential for violent conflict in the longer term.[1056]

The conflict in Sudan has been called the "first climate change war" and on top of all the economic and ecological implications of global warming, the prospect of climate change result in more conflicts like Darfur could be a distinct possibility.

6.1 NIGERIA'S HUMAN RIGHT OBLIGATIONS

As a signatory to the international human rights instruments discussed above, Nigeria has an obligation in both international and domestic laws to ensure that right to health are protected when responding to climate change.

In international law, when a state ratifies an international human rights instrument it undertakes to ensure that the standards contained therein are upheld vis-à-vis those within its territory or subject to its jurisdiction.[1057] All organs of the state are responsible for the implementation of international human rights instruments- the executive, the legislature and the judiciary. As Nigeria has ratified all the major human rights instruments, it is subject to the monitoring and enforcement mechanisms that form part of the international human rights system. The failure to meet its obligations in the climate change context could, for instance, lead to complaints being lodged against Nigeria with the UN treaty monitoring bodies.

Human rights instruments impose broad obligations upon signatory states. By ratifying an international human rights instrument, Nigeria has agreed to *respect, protect and fulfill* the rights contained within it. The obligation to respect means Nigeria must refrain from interfering with or curtailing the enjoyment of such rights. The obligation to protect requires Nigeria to protect individuals and groups against human rights abuses- whether by private or government actors. The obligation to

1056 *Watchman, ibid.*
1057 *See UN Human Rights Committee, General Comment No. 31-Nature of the General Legal Obligation imposed on State Parties to the Covenant (2004) UN Doc CCPR/C/21/Rev. 1/Add.13 at para 10.*

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fulfill means that States must take positive action to facilitate the enjoyment of basic human rights. Thus irrespective of the *cause* of a threat the state is to uphold the human rights affected.

In Nigeria, there is no direct domestic law on climate change yet. Recently, the Federal Government has sponsored the Climate Change Commission Bill as part of the move to establish the Nigerian Climate Change Commission (NCCC).[1058] The new body will be vested with the responsibility to regulate and co-ordinate policies and actions on climate change. In addition, it will set up a National Carbon Market Scheme to tackle the effect of global warming.

When operational, the commission will address issues relating to environmental pollution, erosion, deforestation, desertification and climate change effect. The bill stipulates that 10 percent of Ecological Funds and certain percentage of funds from the Consolidated Revenue Account will be given to the Commission for the discharge of its duties.

In its effort to further ensure the protection of human rights, the Federal Government established the National Human Rights Commission. The Commission is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name.[1059] The Commission shall:

(a) deal with all matters relating to the protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria 1999, the African Charter on Human and Peoples' Rights, the United Nations Charter and the Universal Declaration of Human Rights and other International Treaties on human rights to which Nigeria is a signatory;

(b) monitor and investigate all alleged cases of human rights violation in Nigeria and make appropriate recommendation to the president for the prosecution and such other actions as may deem expedient in each circumstance;

(c) assist victims of human rights violation and seek appropriate redress

1058 *Oyetola W., 'How far can the Climate Change Commission go?' The Nation Newspaper (Nigeria 13 April 2010) p. 30.*

1059 *S. 1(1) and (2) National Human Right Commission Act Cap. N46 Laws of the Federation of Nigeria 2004.*

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and remedies on their behalf;

(d) undertake studies on all matters pertaining to human rights and assist the Federal Government in the formulation of appropriate policies on the guarantee of human rights;

(e) publish, from time to time, reports on the state of human rights protection in Nigeria;

(f) organise local and international seminars, workshops and conferences on human rights issues for public enlightenment;

(g) liaise and co-operate with local and international organisations on human rights with the purpose of advancing the promotion and protection of human rights;

(h) participate in all international activities relating to the promotion and protection of human rights;

(i) maintain a library, collect data and disseminate information and materials on human rights generally; and

(j) carry out all such other functions as are necessary or expedient for the performance of its functions under the Act.[1060]

Also established is the National Health Insurance Scheme under the National Health Insurance Scheme Act.[1061] The Scheme is also a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name.[1062] The Scheme has the following objectives:

(a) to ensure that every Nigerian has access to good health care services;

(b) to protect families from the financial hardship of huge medical bills;

(c) to limit the rise in the cost of health care services;

(d) to ensure equitable distribution of health care costs among different income groups;

(e) to maintain high standard of health care delivery services within the scheme;

(f) to ensure efficiency in health care services;

(g) to improve and harness private sector participation in the provision of care services;

1060 *Section 5 National Human Right Commission Act Cap. N46 Laws of the Federation of Nigeria 2004.*

1061 *Section 1(1) Cap. N 42 Laws of the Federation of Nigeria 2004*

1062 *Section 1(2) National Health Insurance Scheme Act Cap. N42 Laws of the Federation of Nigeria 2004.*

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(h) to ensure adequate distribution of health facilities within the Federation;

(i) to ensure equitable patronage of all levels of health care;

(j) to ensure the availability of funds to the health sector for improved services.[1063]

Juxtaposing the pivotal roles of both the National Human Rights Commission and the National Health Insurance Scheme, vis-à-vis the impacts of climate change, it is high time Nigeria had Right to Health as an inalienable fundamental human right, rating *pari passu* with other fundamental human rights enshrined in the Constitution of the Federal Republic of Nigeria.

Little wonder, cases on the health impact of climate change such as oil emission or oil spillage are better enforced via the general mode of commencement of action[1064] rather than under the special procedure of Fundamental Rights (Enforcement Procedure) Rules. Again, the more reason such cases are maintainable within the exclusive jurisdiction of the Federal High Court rather than having concurrent jurisdiction with the State High Court.[1065]

7.1 GAS FLARING: A MAJOR CONTRIBUTOR TO CLIMATE CHANGE AND ABUSE OF RIGHT TO HEALTH

Nigeria is a major oil producer with most oil extraction taking place in the Niger Delta, and therefore petroleum or crude oil abounds in rock formations. The complex mixture of hydrocarbons and other organic compounds that make up the inflammable liquid fossil is extracted from oil wells found in those oil fields. When

1063 *Section 5 National Health Insurance Scheme Act Cap N 42 Laws of the Federation of Nigeria 2004.*

1064 *The general mode of commencement of civil suit in court is by writ of summons while the proper procedure for commencing an action under the Fundamental Right (Enforcement Procedure) Rules is by way of originating motion or originating summons.*

1065 *See Shell Petroleum Development Company of Nigeria Ltd v Abel Isaiah (2001) 5 SC (Pt I) 1 and Shell Petroleum Development Company of Nigeria Ltd v Chief G.B.A. Tiebo VII & 4 Ors (2005) 3-4 SC 137. See also Ariyoosu D.A., 'Legal Framework for the Downstream Sector of the Gas Industry: An Appraisal' I(1) Nigerian Journal of Petroleum, Natural Resources and Environmental Law (NJPNREL) (Benuch Legal Consult, Port-Harcourt 2009), pp. 109-133.*

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crude oil is pumped up it also drags associated gas with it. Such natural gas could be separated from the oil and be used but oil companies prefer to burn if off.[1066] Gas flaring has been internationally acknowledged as a significant source of greenhouse gas emissions. In Nigeria, gas flaring is a major contributor to climate change and human right abuses.[1067]

In combustion, gaseous hydrocarbons react with atmospheric oxygen to form carbon dioxide (CO2). Gas flaring also causes acid rain which acidifies lakes and stream and damages vegetation, produces air pollution, and can lead to leukemia or asthma and premature death.[1068]

It is on record that gas flaring started under the British rule. It started at the end of colonial rule. In the run-up to independence in 1960, the Secretary of State for the colonies, Lord Home, was asked to address the flaring of gas. He said:

> *there might be a wastage of energy and resources going on which, one day, those giving advice to the Nigerians (i.e., the British) could be reproached.*[1069]

The unacceptability of the practice of gas flaring, and the massive profits to be made by oil companies under the unsuspecting nose of the Nigerians were officially recognised by the British. Extract from a confidential note from the British Trade Commissioner in Lagos to the Foreign Office in 1963 is quite and particularly patronizing, offensive and illuminating. It states:

> *Shell/BP's need to continue, probably indefinitely, to flare off a very large proportion of the associated gas they produced will no doubt give rise to certain amount of difficulty with Nigerian politicians who will probably be among the last people in the world to realise that it is sometimes desirable not to exploit a country's natural resources and who, being unable to avoid seeing the many*

1066 *This is gas flaring and Shell-BP was the first to start this practice in the 1960s.*

1067 *Nigeria: Gas Flaring-Major Contributor to Climate Change and Human Rights Abuses, ibid.* www.wrm.org.ny/bulletin/136/Nigeria.html *accessed 26 April 2010.*

1068 *Nigeria: Gas Flaring-Major Contributor to Climate Change and Human Rights Abuses, ibid.*

1069 *'A Human Rights, Environmental and Economic Monstrosity': <http:/www.climatechange.org/cases/ country/cases/case-documents/Nigeria/gas-flaring-Flaring-in-nigeria.pdf> accessed 20 April 2010.*

1070 *British Trade Commissioner to UK Foreign Office, 1963 quoted in 'A Human Rights,*

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> *gas flares around the oil fields, will tend to accuse Shell/BP of conspicuous waste of Nigeria's wealth. It will be interesting to see the extent to which the oil companies feel it necessary to meet the criticisms by spending money on uneconomic methods of using gas*[1070]

The above extract, no doubt, is a testimony that the British was aware of the devastating impacts of gas flaring as affecting climate change. The British government knew of the practice at the very start of the oil industry in Nigeria, particularly in the Delta. They recognised its unacceptability and calamitous effects. They understood the significant sums of money that Shell/BP would be making by producing and exporting Delta crude. Yet they did nothing to prevent the waste when apparently they were quite oblivious to the impact on local communities.

The most disturbing aspect of the whole scenario is that the British government has implemented policies to reduce gas flaring to a minimum at home, but the same criteria do not apply to British companies in Nigeria where gas flaring is still carried out by Shell as well as other oil companies such as Agip, Exxon Mobil, Texaco and Chevron.

In spite of being a major oil producing country, Nigeria is still among the world's poorest nations. This is a proof that oil based economies in Southern countries just enrich a tiny group of transnationals and local elites, the resultant effects of which is an outbreak of suffering, depression, abuse of human right to health and death. All these have accompanied the long standing opposition to the impacts of oil production including pollution and gas flaring in Nigeria.

There have been incessant arrests by soldiers guarding gas flaring sites operated by Shell.[1071] This has resulted in several litigations and in *Mr Jonah Gbemre v Shell Petroleum Development Company of Nigeria Ltd & 2 Ors*[1072] the Federal High Court acknowledged that the practice of gas flaring is a "gross violation" of the

Environmental and Economic Monstrosity', ibid.

1071 *Nigeria: Gas Flaring-Major Contributor to Climate Change and Human Rights Abuses, op. cit.*

1072 *(Unreported) Suit No. FHC/CS/B/153/2005, delivered on 14th November 2005, Nwokorie J. See also 'Climate Justice: Enforcing Climate Change Law': <www.climatelaw.org> accessed 28 April 2010.*

1073 *Ibid. See also 'Shell Fails to Obey Court Order to Stop Nigeria Flaring, Again':*

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constitutionally-guaranteed rights to life and dignity, and the court ordered Shell to stop gas flaring in the affected Iwherekan community immediately. The court went further to declare the gas flaring laws to be "unconstitutional, null and void".[1073] However, the company went on with the lethal practice of burning gas in defiance of the order of court and this resulted in contempt proceedings against Shell. The order of court was eventually appealed but the end result of the trial court was that the order was not complied with and the trial judge was removed from the case and transferred to another Division of the court in the far North. Something must be fishy!

8.1 OIL SPILLAGE, CLIMATE CHANGE AND RIGHT TO HEALTH

Of all the numerous climate change and environmental challenges facing the country, not in the least in seriousness are soil degradation, deforestation, air and water pollution, desertification, oil pollution, loss of arable land and rapid urbanization. The most significant of these challenges is pollution arising from oil exploration and production, particularly in the oil-rich Niger Delta region. Residents of communities in close proximity to the source of pollution have suffered greatly as a result of exposure to oil spills, gas flaring, contamination of food and water sources, and loss of arable land and livestock.[1074] This has a great impact on the right to health as guaranteed under the various international treaties and conventions of which Nigeria is a signatory.

With particular reference to oil spillage, which has hitherto resulted in contamination of water, food and livestock, it is widely believed that the government deliberately ignores the activities of oil companies simply on account of the significance of oil to the economy. This concern was the basis for a petition filed before the African Commission on Human and Peoples' Rights in *Social and Economic Rights Action Centre (SERAC) v. Nigeria.*[1075] Nigeria was found to have violated the right to health and the right to clean environment as recognised under Articles 16 and 24 of the

1073 *Nnamuchi O., 'The Right to Health in Nigeria' <http://www.climatelaw.org/cases /country/nigeria/media/2007may2/> accessed 28 April 2010.*

1074 *Nnamuchi O., 'The Right to Health in Nigeria' <www.abdn.ac.uk/law/documents/Nigeria_%20210808.pdf> accessed 20 April 2010.*

1075 *Communication 55 of 1996: see <www.abdn.ac.uk/law/documents /Nigeria_%20210808.pdf> accessed 20 April 2010.*

1076 *Nnamuchi, ibid.*

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African Charter on Human and Peoples' Right in that it failed to take reasonable measures to prevent pollution and ecological degradation and promote conservation and secure an ecologically sustainable development and use of natural resources.[1076] The petition alleged that a joint venture between the government of Nigeria and Shell Petroleum for the production of oil was responsible for environmental degradation in the Niger Delta Area of Southeastern Nigeria. It further alleged that the resulting contamination of water, soil and air has had serious short and long-term health impacts, including skin infections, gastrointestinal and respiratory ailments, increased risk of cancer and neurological and reproductive problems.[1077]

Similarly in May 2008, four Nigerian fishermen and farmers from the village of Oruma, in the Niger Delta region, together with Friends of the Earth-Netherland and Friends of the Earth-Nigeria, filed a law suit against Shell in the district court of The Hague, Netherlands, where the company has its international headquarters. The plaintiffs alleged that Shell was negligent in its clean-up of oils spills in Nigeria and that their health was adversely affected by the oil spills. The plaintiffs further claimed that Shell failed to adhere to international standards of "good field practice" in its Nigerian oil operations. They also seek damages for loss of fishponds and livelihood. Shell's challenge to the jurisdiction of the court was overruled.[178] The case is still pending before the Dutch Court.[1079]

The above scenario has demonstrated the extent to which right to health has been trampled upon not only by the so-called multinational oil companies but also by the Nigerian government.

1077 *Nnamuchi, ibid.*

1078 *Shell Lawsuit (Re Oil Pollution In Nigeria) http://www.Business_humanrights. Org/ categories/lawsuits/ lawsuitsregulatoryaction/ lawsuitsselectedcases/reoilpollutioninNigeria> accessed 27 April 2010.*

1079 *In a related situation in 1996, Royal Dutch/Shell was sued in US Federal Court by Ken Wiwa (Son of the late Ogoni activist, Ken Saro-Wiwa who was executed in 1995) and other members of the Movement for the Survival of the Ogoni People (MOSOP). MOSOP had campaign against the environmental damage caused by oil extraction in the Ogoni Region of Nigeria, among other campaigns. Ken Saro Wiwa and other members of MOSOP were detained illegally in 1994, held incommunicado in military custody, then tried by a special court established by the Military, using procedures in violation of fair trial standards, convicted of murder and executed. The plaintiffs alleged that the Nigerian Military Government and security forces committed human rights violation, and that Dutch/Shell was complicit in the commission of the abuses. Parties eventually settled in the case for $15.5 million. See the full report in Shell Lawsuit (Re Nigeria), op. Cit.*

1080 *Based on WHO estimates, around 150,000 deaths now occur in low-income countries each*

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9.1 CONCLUSION AND RECOMMENDATIONS.

In this work attempts have been made to examine the health impacts of climate change. It has shown that the health impact of climate change is a critical issue that policy-makers should be aware of while setting priorities for action and investment to mitigate the impact of global climate change. The fact is no more in dispute that climate change has adverse consequences on health.[1080]

Reducing green house gases emissions can be beneficial to health. Hence it is recommended that efforts be made by the government to feasibly improve environmental conditions to reduce the global disease burden.

It is now axiomatic that the health impacts of climate change are felt unequally. The people at the greatest risk for climate-related health disorders and premature deaths are the poor, the geographically vulnerable, the very young, women and the elderly. The impacts of climate change are already affecting people and the planet and if necessary measures are not put in place the impacts will get far, far worse. Progress therefore has to be made to improve resources for scientific research, leading to stronger evidence.

Similarly, since there are lots of international treaties and conventions on health effects of climate change, these treaties and conventions have to be domesticated and respected. Certain Fundamental Objectives and Directive Principles of State Policies as they relate to health need to be made justiciable by force of enactment.

Some policies also need to be advanced for a change in industry rhetoric. The need for public awareness should not be a matter to be swept behind the closed doors of secrecy. The public should be aware of the impact of emission of carbon dioxide from the burning of coal, oil and gaseous substance. People need to be educated and enlightened to deliver a cleaner, healthier and ultimately fairer environment. People should be sensitized on the need to reduce activities that culminate in adverse

year due to climate change from four climate-sensitive health outcomes - crop failure and malnutrition, diarrhoea disease, malaria and flooding. Almost 85 % of these excess deaths are in young children. See Health impact of climate change needs attention: <http://ww.int/mediacentre/news/notes/2009/climate_change_20090311/en/index.html> accessed 21 April 2010.

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climatic condition and the gains inherent in doing so.

Over the years, legal actions have been taken around the world to enforce the law to combat climate change. Governments should encourage enforcement of the law rather than discourage it, and oil multinationals must uphold the environmental legal framework in their industrial activities.

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