

A LEGAL FRAMEWORK ON AGRO-ALLIED ACTIVITIES IN NIGERIA AND IMPLICATIONS ON SUSTAINABLE DEVELOPMENT

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Abstract

In developing economics like Nigeria agro – allied industries are high in numbers, because it is the major source of both revenue to the government and job opportunities for the citizens. In Nigeria, agriculture, apart from being the mainstay of the economy, has been recognized as the highest absorber of the work forces in the country. However, an unsustainable exploitation of agricultural and agro-allied activities in the country, like logging of wood, deforestation, bush burning, application of inorganic fertilizers, efficient and toxic emissions by industries usually result to serious environmental pollution and degradation which has an adverse implication on sustainable development of environmental resources. This paper focused on legal framework on agro allied activities in Nigeria and its implication on sustainable development. It also looked at government efforts through legislations in regulating the said activities. The challenges facing those efforts are highlighted as well and lastly solutions are proffered by way of recommendations.

1.1 INTRODUCTION

The demand for food and agricultural products is on the increase. Urbanization and the growing numbers of women in the workforce engender increased demand for high value commodities, processed products and ready prepared food. A clear trend exists towards diets that include more animal products such as fish, meat and dairy products which increases demand for feed grain¹. There is also a growing use of agricultural products particularly grains and oil crops as bio-energy production feedstock.

The nature and extent of the changing structure of agro-food demand offer unprecedented opportunities for densification and value addition in agriculture particularly in developing countries. As a reflection of changing consumer demand, the 1990s witnessed a diversification of production in developing countries into non-traditional fruits and vegetables. The share of developing countries in world trade of non – traditional fruits and vegetable has increased rapidly in the recent past.² It has been noted that, global

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¹Food and Agriculture Organization. '2007 Report' (28 May 2014)<http://www.uno/FAO_org_KA102>
[accessed Febuary 22, 2016.](#)

²*ibid*

processed food sales per – year is estimated at and 3 trillion or approximately three – quarters of the total food sales internationally.³

The prospects for continued growth in demand for value – added food and agricultural products constitute an incentive for increased attention to agro-industries development within the content of economic growth, food security and poverty – fighting strategies. Agro industries as a component of the manufacturing sector where value is added to agricultural raw materials through processing and handling operations are known to be efficient engines of growth and development. Agro industries have high multiplier effect in terms of job creation and value addition and also have an adverse environmental impact on sustainable development if not properly managed.⁴

1.2 Definition of Terms

There is need for the definition of the following key words, agriculture, agro–allied and sustainable development.

Agriculture: The science, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the products.⁵

Agro – allied: This refers to the processing of agricultural products or raw material into finish goods or products. For example cassava as agricultural product could be used to produce starch, floor etc.⁶

Sustainable development: It has been defined as development that meets the need and aspiration of the current generations without compromising the ability to meet those of future generations⁷.

1.3 Agro – Allied Activities in Nigeria

Agro allied products are processed from agricultural produce, like yam, cassava, crops among others for the sustenance of life. Basically, these products could be primary or secondary products. While primary products stand for agricultural raw materials such as, fruits, vegetable, timbers etc in their natural state, the secondary products refers to those that have changed from their natural state into other kind of goods through the process of manufacturing or processing such as groundnut oil from groundnut, furniture from woods, custard food from corn, bounvita from cocoa nut etc.⁸

The importance of agricultural and agro –allied products cannot be over-emphasized, as it ranges from provision of food, medicine, shelter, clothing, contribution to GDP, creation of job opportunities etc. The country is greatly endowed with abundant agricultural

³Rabobank, L ‘the Boom Beyond commodities, a new era shaping Global Food and Agro – Business’ (Hong Kong: 2008). 56

⁴*ibid*

⁵http://www.merriam_webster.com/dictionary/agriculture accessed 22/2/16.

⁶*ibid*

⁷Lawrence Atsegbua, Vincent Akpotaire, Folarin Dimowo, Environmental Law in Nigeria, Theory and Practice 2nd Ed, Ambik Press, Isiolhor, Benin City (2010), 68

⁸Okeiri, Ephraim, Foreign Technology and Development of Indigenous Technological Capabilities in Nigeria Manufacturing Industry, Technology in Society vol. 22 (2000) 189 – 199.

production resources such as fertile land, water and favourable agro – climatic environment suitable for the production of a wide variety of agricultural commodities.⁹ Agriculture has two aspects, i.e., pre-planting activities which include clearing of farmlands, cultivating of soil or land and planting the seed. While the second aspect refers to post planting activities which the chief of its all is harvesting of the crops and other agricultural produce. The food and agricultural organization estimated the country’s total cultivable area at about 66 million hectares which the total renewable water resources are estimated at 286.2km as at 2004. However, agriculture is the source of food for the over increasing population on one hand, and provides a substantial amount of fibre and raw materials utilized by agro – allied industries for production of secondary goods and processed food items on the other hand.¹⁰

There are many agro – allied companies in Nigeria ranging from raw material processing to others engaged in finished products. For instance, food, Agro and Allied industries Ltd is one of the most modern malting plants in the country known for processing raw materials of sorghum into sorghum, malt and malt derivatives.¹¹ Another agro allied company known as Monson Agro Allied Ltd. The Company processes and exports the following products, Bitter Kola, Cashew Nuts, Ginger, Sesame seeds among other products.¹²

2.0 The Concept, Aims and Principles of Sustainable Development

The term sustainable development has been defined as:

Development that meets the needs and aspiration of the current generations without compromising the ability to meet those of future generations.¹³

According to the report “Our Common Future” by Ms. Harlan brundtland, sustainable development was seen as development that satisfies the needs of the present without compromising the ability of future generations to satisfy theirs¹⁴. The concept insists on the need to protect the diversity of genes, species and all terrestrial and aquatic ecosystems nature.¹⁵ This is possible particularly through measures that protect the quality of the environment and by the restoration, development and maintenance of habitats that are essential to species. It connotes the sustainable management of the use of the animal and plant populations being exploited. In other words, it is the rational management of human, natural, and economic resources that aims to satisfy the essential needs of humanity in the very long term.

⁹*ibid*

¹⁰Food and Agricultural Organization 2005

¹¹www.foodagromalting.com.

¹²www.morisonplc.com/about_agro_allied.php.

¹³ Lawrence Alsegbua, Vincent Akpotaire, Folarin Domowo, Environmental Law in Nigeria; Theory and Practice 2nd Ed, Ambik Press, Isiohor, Benin City, 2010, p.68

¹⁴*ibid*.

¹⁵*ibid*.

Sustainable development implies the fulfillment of several conditions, such as preserving the overall balance, respect for the environment and preventing the extinction of natural resources. In order to be sustainable, development must combine three main elements which are fairness, protection of the environment and economic efficiency.¹⁶ The aim of sustainable development is to define viable schemes combining the economic, social and environmental aspects of human activity. These three areas must therefore be taken into consideration by communities, companies and individuals. As such the ultimate goal of this concept is to find a coherent and long-lasting balance between these three aspects. However, consensus of ideas and behavioral trends of state has led to the emergence of some principles of international environmental law which are geared towards the regulating, remedying and punishing of activities that threaten or damage the environment. This is to ensure environmental health and safety.¹⁷

3.0 Implications of Agro Allied Activities on Sustainable Development

Utilization of pesticides and fertilizers to control pest and boost agricultural production compromises the environment through run – off water which often ends up in rivers, lakes, underground waters and adversely impact on beneficial insects, micro-organisms and distort aquatic balance.¹⁸

Unregulated logging and agricultural practice of bush fallowing and shifting cultivation contribute to deforestation.¹⁹ This leads to erosion, desertification and interference with the carbon cycle which enhances the greenhouse effect. Overgrazing by animals and excessive use of herbicide has also influenced loss of biodiversity. Bush burning and clearing of grassland, shooting, trapping and smoking out rodents from burrows have increased deforestation, contributed to atmospheric imbalance and threatened extinction of some wildlife and forest resources.²⁰

Agro – allied land pollution is caused by excessive use of pesticides, herbicides, insecticides, and food ripening chemicals etc. which lead to absorption of nitrogen from the soil which plant depends on nutrition.²¹ The processing of semi-luxury goods and species are done without due regard for environmental considerations.

The major environmental challenge in this area is the issue of fermentation and waste disposal. Fermentation is generally carried out in fixed location and the pollutions by product can accumulate in the soil over long periods damaging micro flora and fauna.

¹⁶Nkechinyere Attach, 'Environmental Sustainability and Sustainable Growth: A Global Outlook' University of Pennsylvania Scholarly Commons (2010) 1.

¹⁷Violet O. Aigbokhaevbo, 'International Environmental Law Principles: Sustainability Challenges', University of Benin Journal of Private and Property Law, vol. 1, (2010).

¹⁸ Violet O. Aigbokhaevbo, *Non – Oil Resources Exploitation in Nigeria: Environmental Malfeasance* IELR Issue (2012) (Sweet & Maxwell)

¹⁹*ibid*

²⁰ C. Ifeanyi Obi, U.R. Etuk, and O. Jike Wai, "Climate Change, Effects and Adaptation Strategies: Implication for agricultural Extension System in Nigeria" *Greener Journal of Agricultural Sciences* 2(2) (March 2012): 53

²¹ Ladan Report on the Review of Sokoto State 15 - 22

The washing operations sometimes carried out after fermentation gives rise to biologically polluted wastewater which if discharged untreated can impair soil surface.²² Improper waste disposal of agro – materials such as water cans, water sachet etc. results to land pollution. These wastes usually find its way into water channels, gutters, waterways and obstruct flow of water thereby leading to erosion and flood. Also, the improper disposal of agro by-products litters the environment as such deprives its aesthetic value.

Deforestation is another effect of agro – allied industrial activities on the environment. Agro allied industries, like the saw mills, textile mills, pulp and paper mills, beverage and pharmaceutical industries utilized forest resources in the manufacturing of their products.²³

Plant fibers are used in the manufacture of ropes and strings, brushes and brooms, upholstery work, wood is used for the construction of houses and as raw materials for the manufacture of papers, rayon, plastics explosives, lacquers etc. The fuel and energy which operates most of these agro – allied industry come from plants.²⁴ Over reliance on forest resources by agro – allied industries for their raw material causes adverse environmental impact of flooding, erosion, desertification, loss of carbon sink etc. which imposes greatest challenge on sustainable development of environmental resource in Nigeria.²⁵

4.0 Regulatory Framework on Agro – Allied Activities in Nigeria

In order to regulate agro-allies activities and curb its adverse environmental impact in Nigeria, the government has enacted some legislations on the subject which include:

4.1 Land Use Act

The aim of the Act is to ensure uniform and proper utilization of lands in Nigeria, either for agriculture or any other purposes.

Section 1 of the Act vests the ownership of all lands in a state in the Governor of the state that holds same in trust for the people.

Under section 5, the governor has the power to grant right of occupancy in respect of any land in urban orders. However, the Governor may as well revoke the right of occupancy holds by anybody for public purpose.²⁶ While section 43 provides for prohibition and penalties for unauthorized use of land in the country. The penalties range from a fine of N1, 000 to imprisonment for one year.

This Act has failed to achieve it aim, since use of lands goes on unregulated. Another challenge of the Act is lack of adequate zoning of lands for various uses.

²²*ibid*

²³ K. Okunomo, “Utilization of Forest Production in Nigeria” Africa Journal of General Agriculture, 6. No. 3 (2010) 146 <http://www.asopah.orgaccessed5/3/16>.

²⁴ *ibid*.

²⁵ *ibid*.

²⁶ S. 28 Land Use Act. 1978

4.2 **Environmental Impact Assessment (EIA) Act²⁷**

This Act requires any one engaging in development project which is likely to have environmental impact to undertake an assessment of its environmental implication before embarking on it. Failure to comply with this provision attracts a fine of N5, 000 for individuals and N100,000 but not more than N1,000,000, for corporate offenders. It follows therefore that an agro – allied industry seeking to be sited in Nigeria must first obtain a license of compliance from the authority before commencing operation. The Act makes it mandatory for every such project to be assessed and certified before it is allowed to operate. However, the Act has some limitations, ranging from violations of its provisions by developers, to lack of awareness of the existence of the Act by the populace.

4.3 **The National Environmental Standards And Regulations Enforcement Agency (Establishment Act) 2007 (NESREA) Act**

The Agency is charged with the responsibility of enforcing all environmental guidelines, policies, standards and regulations in Nigeria. It has the duty to enforce compliance with provisions of international agreements protocols, conventions and treaties on the environment. The Act empowers the agency to make regulation covering air quality and atmospheric protection, water quality, effluent limitation, environmental sanitation, land resources and watershed quality, discharge of hazardous substance etc.²⁸ The regulations made under the Act include but not limited to the following:

i. **National Environmental (Food, Beverages and Tobacco Sector) Regulation 2009**

This regulation aimed at reducing and preventing pollution from the operations of food, beverages and tobacco industries by ensuring that they install anti – pollution equipment for detoxification of effluents and emissions based on the best available technology.²⁹ The regulation also provides for ‘polluter pays principle’ and that in the event of an adverse impact on the environment, the polluting industry shall be responsible for:

- a. The cost of damage, assessment control and clean up
- b. Remediation
- c. Reclamation or restoration and
- d. Compensation to affected parties³⁰.

It also provides for manufactures of various brands of products to establish a buyback programme for bottles and other packaging for products.

However, despite the clear provisions of this regulation, manufacturing industries are still in the habit of polluting the environment and the agency seems not to be helping matters as nothing is being done to check these practices.

ii. **The National Environmental (Desertification Control and Drought Mitigation) Regulation 2011**

This regulation controls exploitation and utilization of agricultural product such as timber and other forest resources. It encourages the sustainable use of fuel wood through the

²⁷ Cap E12, LFN 2004

²⁸ See s. 27 of the Act

²⁹ Regulation 5

³⁰ Regulation 7(2)

utilization of more effective and energy saving devices to encourage their wider use and adaptation at all level.³¹ It aspires to attain the 25 percent national forest cover prescribes by Food and Agricultural Organization FAO with a view to bring self-sufficient in world and other forest resources including the enhancement of ecological integrity and the abatement of the impact of climate change. Sustainable agricultural and range management practices are to be ensured. Improve animal husbandry and management of water resources in the desertification prone areas. It also strives to achieve sustainable livelihood, modern and affordable production technologies to resource poor farming communities.³²

A violator of this regulation, on conviction, is liable to fine of N1,000,000 or imprisonment for a period not exceeding two years or both such fine and imprisonment and an additional fine of N40,000 for every day the offence subsists. Corporate offender are liable to a fine of not less than N5,000,000 and an additional fine of N50,000 for every day the offence subsist.³³This regulation is faced with many challenges including lack of public awareness of its existence, poverty among the people, corruption revenging the officials of the agency which accounts for its poor implementations.

iii. National Environmental (Textile, Wearing Apparel, Leather and Poof Wear Industries) Regulations 2009.

This regulation provides for the sustainable use of agro – allied materials by producing industries in the country. It prohibits emission of toxic and effluent substances above permissible level in the country. Pollution of the environment by the industries engaged in manufacturing any of the products is prohibited. Any violation of the provisions of the regulation is punishable with a fine or imprisonment or both. Despite the existence of this regulation, environmental pollution by industries still goes on daily basis.

**5.0 Comparative Analysis
European Union (EU)**

Amongst other regulations relating to agriculture, the EU Water Framework Directive (WFD) was adopted in 2000 as a means of protecting inland surface waters, transitional waters, coastal waters and groundwater. The WFD uses the Integrated Water Resources Management (IWRM) approach in which the river basin is the management unit for water. The Directive requires member states to create management plans for each river basin on a six – year cycle. Nonpoint source pollutions are to be managed using an integrated approach.³⁴

Nitrogen pollution, especially from agriculture, is a particular problem in European. An earlier EU Nitrates Directive required that member states submit a report to the European commission every four years including information pertaining to code of good farming

³¹ V.O. Aigbokhaeubo, Ibid fn,17

³² *ibid*

³³ Regulation 21

³⁴ <http://www.Rao.org.docrep/019/i3536e/13536e.ptf>, accessed 5/3/16

practice, designated Nitrate Vulnerable Zones (NVZs), results of water monitoring and a summary of relevant aspects of action programmes for vulnerable zones.³⁵

To fulfill the task of these directives, farmers are obliged to take into account the following aspects for control of pollution from nitrogen crop rotations, soil winter cover, catch crops, in order to limit leaching during the wet seasons.

The WFD is a landmark legislation that provides a standardized watershed approach to water pollution arising from agricultural and agro – allied activities across Europe. But unfortunately Nigeria as a country does not have such practice as applicable in countries under European Union.

Having observed that Nigeria lacks such practice, it is hereby recommended that the country should borrow the practice for good and sustainable agricultural practices.

5.1 Regulatory Challenges of Agro – Allied Activities in Nigeria

The Nigeria Government had at one time or the other made several laws and regulations for the protection of the environment against pollution of the air, water and land. Some of these laws and regulations regulate the agro-allied activities as a source of environmental pollution in the country. The effective implementation of the laws and regulations has however been impeded by some factors which include the following:

i. Inadequate Man-Power and Facilities

The various agencies responsible for the implementation of agro allied environmental laws such as NESREA lacks the requisite man power and facilities to effectively carry out their operations, these inadequacies can be traced to some other factors such as lack of manpower and corruption.

ii. Corruption

Corruption is one of the biggest challenges confronting the implementation of environmental laws and regulations in Nigeria. Corruption has eaten very deep into the very foundation of the country that it is almost becoming a general phenomenon. Some of these industries that are involved in the pollution of the environment are owned and controlled by influential persons who connive with the officials of the agencies to frustrate the effort that may be made in implementing the regulations.

The so called fight against corruption in this country has not been holistic, it has always been politically motivated and used as political tools against political enemies.

iii. Poverty

Poverty is another major challenge to the implementation of environmental laws. The vast majority of the Nigeria population are poor and live below I dollar per day. These poor majorities are rural dwellers who settled in the rural areas where the major activities that pollute the environment are carried out. They engage in one form of peasant farming or the other and rely heavily on agricultural product as their God given gift. Also, most of all the agro-allied industries in Nigeria are located close to their raw materials in the rural area and whenever the activities of these industries pollute the environment it become difficult for the poor rural dwellers to bear the cost of litigation to seek redress in the court.

³⁵*ibid*

iv. Poor Funding

Poor funding of environmental agencies is another major challenge to the implementation of environmental protection laws in Nigeria. The various agencies that are charged with the implementation of environmental laws are often starve of fund which lead to poor quality of machines and technologies, insufficient equipment and unqualified staff etc. which usually results to low output.

v. Judicial Attitude

The attitude of the judiciary has also constitutes a major challenge to the implementation of environmental laws. In addition to the long period a case usually takes in court the issues such as locus standi, the onus of proving the liability of industries and damages suffered among others are some of the ways the judiciary has contributed to the challenges of environmental protection laws. It is often said that justice delayed is justice denied, the unreasonable delay occasioned in environmental cases often work untold hardship on poor claimants against big industries who may even be a multinational company. Also the onus of proving strictly the liability of the polluting companies even in the face of a clear evidence of pollution occasioned injustice on claimants who may not have the sophisticated technology to prove the required element of the pollution.

The issue of *locus standi* is also a major challenge in the implementation of these laws for example, the case of *Oronto Douglas v. Shell Petroleum Development Company*, where the court struck out the case of the plaintiff on the ground of locus standi is a good example on the point

vi. Lack of Access Road

Lack of good access road to the locations of some agro-allied industries which are usually located in the rural area also contribute to the challenge of implementation. If the locations of the industries are difficult to access it will be difficult to monitor their activities to know when and how they have breached the laws on these areas

vii. Overlap Between Environmental Protection Agencies

An overlap which exists between two or more agencies charged with the responsibility of implementing environmental laws and regulations also results to the non-implementation of the laws. For example, if a particular agency having the power to do an act which it know another agency also has the same responsibility to perform the same duty, it may decide not to do it in the believe that the other agency will carry out the responsibility and in the event that that other fails to perform the duty, there will then be an overlap and such overleap will result to the non-implementation of the law thereby becoming a challenge.

viii. Obsolete Laws and Regulations

Some of the laws and regulations made specifically for the protection of the environmental are obsolete and therefore serve no useful purpose. For example the Inland fisheries Act 1971 and Sea.

Fisheries Act 1992 which provide for the fine of N3,000 as alternative for the two years' imprisonment has become obsolete and therefore cannot serve it deterrent purpose as violators can easily pay the paltry amount without the need to obey or observe the law.

ix. Lack of Adequate Data

The need for accurate data for policies and programmes cannot be over emphasized. Data forms the bed rock for government progrmmes and policies. When there is not reliable data the environment cannot plan a successful programme. Nigeria does not have

dependable institutions she relies on for data to know how many agro-allied industries operate and how much pollution they had done to the environment. It is therefore difficult to have action plan that can help protect the environment against the act of pollution.

x. **Lack of National Recycling System**

The lack of national recycling system is also a serious challenge to environmental pollution in Nigeria. This makes waste from agro-allied products which are supposed to be use in the manufacturing of others woods to liter the environment.

5.2 Recommendations

Having critically analyzed the concept of agro-allied environmental pollution, discussed the various environment pollution by agro-allied activities, and identified the various legislations that protect agro-allied environmental pollution in Nigeria and their challenges, this paper therefore make the following recommendations as a way forward towards achieving sustainable development of environmental resources in Nigeria.

1. Adequate man-power and facilities should be provided to enable the various environmental agencies effectively and efficiently carry out their duties to ensure optimal output.
2. The problem of corruption must be seriously tackled rather than paying lip service to this endemic disease that have negatively affected the wellbeing of this great country. Fight against corruption is a clarion call for all stakeholders which must be devoid of political and other sentiments. This paper therefore recommend that the international corruption treaty that Nigeria is already a signatory to should be domesticated to allow the international community handle corrupt cases from Nigeria in the International Criminal Court.
3. The various environmental laws and regulations should be reviewed to avoid lacuna and all cases of overlap which had over the years serve as a challenge against the smooth implementation of environmental laws in Nigeria, should be properly defined.
4. Obsolete environmental laws and regulations must be replaced with new ones to enable the country realize her God giving natural endowment.
5. The judicial barriers of locus standi. strict requirement of the onus of proof and the unreasonable delay occasioned in the judicial process must be remove from environmental law cases so that environmental polluters would be made to pay for their act and also restore the environment to it formal state before the very act that pollute it.
6. The government must take a positive step to ensure that all access roads leading to industries that have the propensity of polluting the environment are in good condition so that the activities of these companies can be fully monitored.
7. The issue of poor funding must be squarely tackled by the government by providing adequate fund for the various environmental agencies and stakeholders to fully carry out their operations.
8. The issue of poverty must be prioritize by the government by taking a pro-active measure and implementing programmes and policies that are aimed at poverty alleviation.
9. The government must establish more research institutions and overhaul existing ones that are responsible for data collection and collation to enable her plan accurately for the environment as this is inevitable for every government that must attain sustainable development goal.

10. The Federal government should adopt and implement the organic agricultural system and make it a national concern to enable all stakeholders in the agro allied sector take part and participate. There should be incentives for compliance as well as punishment for violators provided that the government must provide an enabling environment for organic agricultural project.
11. There should be an establishment of a national recycling institutes and industries that would be responsible for turning agro-allied waste to usable material so as to make the environment refuse free and sanitized -
12. The provision of section 20 of the 1999 Constitution of the Federal Republic of Nigeria which is not justiciable should be presented to the National Assembly which should enact a law there under to make environmental rights justiciable.

5.3 Conclusion

Nigeria like any developing nation is facing challenges in her developmental stride and efforts to improving the quality of life of the citizens. This paper revealed that although there were efforts made by successive governments towards the protection of the environment against pollution particularly in the agro-allied sector, these effort however have not produced expected result due to a number of factors highlighted above upon which recommendation were made. It is hereby submitted that unless these recommendations are adopted and implemented by the government and all stakeholders, environmental pollution in Nigeria will continue with its adverse impacts and implications on sustainable development which cannot be for the best interest of both present and future generations. Nigeria to achieve the goals of sustainable development there is need for the adoption of best international practice in agro – allied activities in the country. There is also need for extensive public awareness campaign which will go a long way in re-orientation of the citizenry on the best utilization of environment. This paper has demonstrated that unregulated agro-allied activities have adverse environmental implications on sustainable development of Nigerian ecosystems.