

APPRAISING ENVIRONMENTAL RIGHT DEROGATIONS AS A BREACH OF HUMAN RIGHT AND ITS ATTENDANT HUMAN SECURITY CONCERN IN NIGERIA

By

Desmond O. N. Agwor, Ph.D*
Adele, Justice Manuelewhor**

Abstract

The debilitation of the environment and natural habitats for humans and other living things appears to be a serious security threat in Nigeria and therefore deserves a robust discuss. This work examines the destruction of the environment and its attendant risk in having a peaceful and harmonious nation. The work reveals among other things that the protection of the environment is the protection of human rights. Furthermore, that an effective environmental protective measure involves policy framework that is motivated by respect of human right, promotes and enforces rights and freedoms. This becomes a veritable weapon for the protection of our environment rather than a hindrance. This work finds that responds to the destruction of the environment will make little impact, if it is not rooted on policies emphasizing on how the destruction of environment is a natural security concern affecting life expectancy of the citizenry. The research methodology is reviewing and discussing the extent legal framework protecting the environment and how well states have adhered to it and its attendant consequent to the state of life security. This gives the work a doctrinal and comparative research approach. It made some salient recommendations aimed towards protection of the environment.

Keywords: *Environmental Protection, Human Rights and Human Security.*

1.0 Introduction

Environmental right is simply the inalienable right to a healthy environment for all citizens.¹ This right has been described elsewhere to include the right to a clean and safe environment as the most basic one. It includes substantive rights, which are the hardest to define. The right to safe drinking water, clean air, and safe food would be starting points for it. The second is the right to protect the environment. The third is the right to information, to access to justice, and to participate in environmental decision-making.²

For purpose of clarity, environmental rights belong to the third generation of rights that have otherwise been described as evolving rights. There is as yet no common agreement on what environmental rights really entail. It has been suggested that the possible components of a substantive human rights or

* DIP., LL.B. (RSU) B. L (Abuja), LL.M, Ph.D (RSU), Lecturer at Law, Department of Jurisprudence and International Law, Faculty of Law, Rivers State University, Nkpolu-Oroworukwo, P.M.B. 5080, Port Harcourt, Nigeria
Tel: +2348035425341, E-mail: desmondnoa@gmail.com; desmond.agwor3@ust.edu.ng

** LLB(RSU), BL (Abuja), LLM (RSU), Ph.D Candidate, Rivers State University, Port Harcourt. Email: adelejustice2@gmail.com; Tel: +2348030855853

¹C. A. Omaka, Lecture Note on "Global Disasters caused by Industrial Pollution" Delivered at Ebony State University, Abakaliki on 20th September 2003

² M. Lorenzo, Background Paper on the Project *Environmental Human Rights* prepared for ANPED. The Northern Alliance for Sustainability, <<http://www.anped.org/docs/background%20document.doc>> Site Last visited on 09/08/24. This Definition is supported by the International Institute for Environment and Development (IIED). See generally, *Environment and Human Rights: A New Approach to Sustainable Development, Opinion: World Summit on Sustainable Development*, IIED, 2001.

perhaps several environmental rights can be seen in one source, which sets out no less than 15 rights relative to environmental quality³ They include:

1. Freedom from pollution, environmental degradation and activities life, health or livelihood;
2. Protection and preservation of air, soil, water, flora and fauna;
3. Healthy food and water, a safe and healthy working environment;
4. Adequate housing and land tenure and the right not to be evicted from home or land; to participate in decisions on evictions and to restitution, compensation or land; resources and protection against destruction and degradation thereof for indigenous people.⁴

The sole import of environmental law is protection of life and encouragement of all facilities that lead to healthy living. That is why a threat to the environment is deemed as a threat to the most important fundamental human right – the right to life. Even before the Stockholm Conference, especially after all countries of the world came to terms that the right of every human being to an environment that will allow him have a decent life, environmental right has been recognised prime of man’s fundamental rights. That is why it is recognised to the UN, European and African Human Rights declarations.

It is against this background that this paper examines the destruction of the harmonious environment and how it affects our security. This paper identifies various challenges ----- the environmental with a view to make recommendations to tackle the problem.

2.0 Definition of Key Words

i. Environmental Right

Similarly, environmental right is the field of law dealing with the maintenance and protection of the environment, including preventive measures such as the requirement of environmental impact statements to measures to assign responsibility and provide cleanup for accidents that harm the environment.⁵ It also embodies all the natural and man-made rules that ensure sanity in our relationship with our environment, housing and development, of which non-compliance will elicit some sort of sanction against the defaulter. Environmental law, therefore, can simply be said to be any rule or law, which is made or used for the protection, maintenance, conservation and improvement of the environment, including those for the redress for environmental harm.⁶ Ogbuigwe defined environmental law as an organised way of using all of the laws in our legal system to minimise, prevent, punish or remedy the consequences of actions, which damage or threaten the environment, public health and safety.⁷ Environmental law has thus been described as the filed of law dealing with the maintenance and protection of the environment, including preventive measures such as the requirements of

³ Human Rights and the Environment: Final Report of Special Rapporteur appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. U. N. Dec. E/CN.4/Sub.2/1994/9.p.74.

⁴ Cited in Ako R.T “Entrenching the Right to Environment into Nigeria’s Constitution” in *Ikeja Bar Journal*, vol. 1, pt. 1 2005, p. 119

⁵ A. B. Garner, (ed.) (2004). *Black’s Law Dictionary*, 7th Edition. St. Paul US: West Publishing Co. P. 215

⁶ C. A. Omaka, *The Nigerian Conservation Law*. Lagos: Lion’s Unique Concept Publications, 2004. See also *Black’s Law Dictionary*, 7th ed. West Group, St. Paul, Minn 1999. P. 555.

⁷ A. Ogbuigwe, Legal and Regulatory Framework for Environmental Management in the Niger Delta. Paper Delivered at the National Workshop on Environmental Development Strategy, Niger Delta of Nigeria at the International Airport Hotel, Omagwa, Port Harcourt in September 1995.

Environmental Impact Statements, as well as measures to assign liability and provide cleanup for incidents that harm the environment.⁸ This definition implies that any rule or law that can be applied to achieve any environmental end qualifies as environmental law. Professor Phillippe Sands sees environmental law as an aspect of international law that should be defined as such. To Sands, international environmental law comprise those substantive, procedural and institutional rules of international law, which have as their primary objective the protection of the environment.⁹

Generally, environmental right in essence is the set of rules and regulations laid down by the state and or its agencies for the protection of the environment, preservation of natural resources and guarding against any sort of pollution, for the ultimate protection of man's life and that of flora and fauna. It also embodies all the natural and man-made rules that ensure sanity in our relationship with our environment, housing and development, of which non-compliance will elicit some sort of sanction against the defaulter. Environmental right therefore, can simply be said to be any rule or law, which is made or used for the protection, maintenance, conservation and improvement of the environment, including those for the redress for environmental harm.

ii. Human Security

These reveal not a single definition of the concept but a family with various variants.¹⁰ The objective of human security have been said to be to safeguard the vital core of all human lives from critical pervasive threats in a way that is consistent with long-term human fulfillment.¹¹

While freedom from physical hurt, injury, abuse or the threat thereof constitute the core of individual security, academic views of how far the communal concept of human security should (or could) be expanded from this core differ sharply.¹² For some, hunger, disease and environmental contamination represent grave security threats – even worse than physical violence. Thus, conditions of abject poverty or powerlessness are viewed as not qualitatively different from vulnerability to physical violence during conflict. Others have argued that human security should include the notion of “structural violence” referring to the structure of the relevant political – social system (such as apartheid) or the global trading system.¹³

Understanding the concept and discourse requires attention to actual users and contexts. Observation of human security shows an unexpected degree of spread, including into gender studies, environmental studies, migration research and the thinking of various organizations. Thus, the global environmental change and human security research program has defined human security as the capacity of individuals and communities to respond to threats to their social, human and environmental rights.¹⁴ In the phrase ‘freedom from want’, ‘want’ has its rights older sense of non-fulfillment of a basic need. In this same vein, Eleanor Roosevelt declared: ‘The freedom of man, I contend, is freedom to eat’. The seven securities may overlap; the checklist can also be treated as about potential areas of threat.

⁸ *Black's Law Dictionary*, 7th ed. West Group, St. Paul, Minn 1999. P. 555

⁹ *Principles of International Environmental Law*, 2nd edition, Cambridge University Press U.K. (2004).

¹⁰ D. Gasper, *The Concept of Human Security* (Chenoy Press, 2007) 38.

¹¹ F. Olanisikin, *Global Development of Human Security* (Transaction Publishers, 2007) 42.

¹² S. Werthes, *Human Security on Foreign Policy Agendas* (University of Duisburg-Essen, 2006) 7.

¹³ C. Vollnhals, *Assessing Human Insecurity Worldwide* (University of Duisburg-Essen, 2011) 102.

¹⁴ UNDP, *Human Development Report* (Oxford University Press, 1990) 71.

Leaning and Arie¹⁵ definition of human security likewise concerns psychological security, and present this as an important resource in dealing with the object of security in a person or group's environment.¹⁶

According to Burgess, human security goes beyond protective mechanisms to include the need to empower individuals, identifying their security threats and articulating the means by which they will implement the change needed.¹⁷

The agenda set by human security concept involves attention to how much has, as a matter of public priority, to be secured, it thus involve more detailed discussion of what is "basic". King and Murray influentially defined human security as deficiency in any key area" 'deprivation of any basic capabilities'¹⁸ with reference to specific threshold levels, this means human security is the expected number of years of life without falling below critical thresholds in any key domain of wellbeing.

In the words of Macfarlane and Khong.¹⁹ They presume the ownership of the term 'Security' by conventional 'security studies' which concentrates on deliberate violent threats to physical wellbeing and simply assert that threat from environmental change, for example are not part of the 'human security' field. In effect they defined old-fashioned (state) security studies established access to privilege funding. The aim is to reserve the term protection for only protection of life against violent attacks, as it protection of health, and protection of anything else against anything else, are not 'protection'.

The root and usage of the term 'security' validate no such restriction; indeed according to Owen,²⁰ for centuries the term applied to individuals and that while authors like Macfarlane and Khong do make the shift to the individual in theory (they) ignore it in practice by subjectively limiting what does and does not count as a viable threat... [it] is a communicable disease, which kills 18,000,000 people a year, not [military-style] violence, which kills several thousand, that is the [greater] real threat to individual.

These concerns of human security lead to the definition of human security in terms of the stability of the achievement of access to goals, in particular with coping with 'downside risks'. According to Amartya Sen,²¹ if human security is defined only in terms of that phrase, would concern also the degree of stability 'downturn with security' does not equate security to the stability of anything but rather to the removal of unacceptable risks for weaker people. Reflecting that security is a prioritizing term, and that Sen here discusses 'human security, downturn with security' referring to securing the fulfillment of basic needs or the ability to fulfill them.

3.0 Legal Framework

i. The Constitution of the Federal Republic of Nigeria, 1999

Section 20 of the 1999 Constitution of Nigeria is a veritable tool for the protection of the environment. It provides "the state shall protect and improve the environment and safeguard the water, air and land,

¹⁵ E. Roosevelt, *What is Security?* (Oxford University Press, 2004) 16.

¹⁶ A. Leaning and Others, *Human Security in Crisis and Transition* (Praxis, 2004) 85.

¹⁷ J. P. Burgers, *Promoting Human Security: Ethical, Normative and Educational Framework* (Bloomsbury, 2007) 14.

¹⁸ G. King, *Rethinking Human Security* (Oxford University Press, 2001) 31.

¹⁹ N. Macfarlane, *Human Security and the UN – A Critical History* (University of Indiana Press, 2006) 61.

²⁰ T. Owen, *Human Security – Conflict, Critique and Consensus* (Cambridge University Press, 2004) 13.

²¹ A. Sen, *Human Security Now* (Saka Gakkai International, 2003) 36.

forest, and wild of Nigeria”. Chapter IV of Nigeria Constitution on Fundamental Human Right is nevertheless a tool for environmental protection. Stockholm Declaration²² Sweden of 1972 on Human Environment recognises the relationship between human rights and environmental protection. It provides that man has the fundamental right to freedom, equality, and adequate condition on life in an environment of quality that permits a life of dignity and wellbeing.

ii. NESREA Act 2007

Making a statutory provision for environmental sanitation is one of the innovations of NESREA Act as against the defunct FEPA Act. Unlike the FEPA Act, which considered environmental sanitation and minor pollution as flimsy, only worthy of being part of state and local government edicts, the NESREA Act, gave the Agency power to make regulations for the purpose of protecting public health and promotion of sound environmental sanitation.²³ This is quite an innovative in the sense that National Environmental Sanitation has been part of Nigeria culture since independence and formalized by Phase 5 of Buhari/Idiagbon regime *War Against Indiscipline* of 1984. This Phase was a wake up call for all Nigerians to compulsorily clean their environment from filth, overgrown grasses, effluents and other pollutants, every last Saturday of the month. By implication, this laudable provision would heighten this national consciousness that is already being downplayed by many states of the federation. The Act, however, did not make provision for penalties that would be meted out to defaulters. It simply left it at the discretion of the Regulation that may be made pursuant to this provision. According to Section 25(2):

A person who violates the provisions of the regulations made pursuant to subsection (1) of this section shall be guilty of an offence and punished under the penalties imposed in the regulations made pursuant thereto. Section 23 provide that the Agency shall make recommendations on water standards taking into consideration, the use and value of public water supplies, the propagation of fish and wildlife, recreational purposes, agricultural, industrial and other legitimate uses.

A person who violates the provisions of the regulations made on water equality and standards, commits an offence and shall on conviction, be liable to a fine not exceeding N50,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment and an additional fine of N5,000 for everyday the offence subsists. If the offence is committed by a body corporate, it shall on conviction, be liable to a fine not exceeding N50,000 and an addition fine of N10,000 for everyday the offence subsists. However, any person who violates the provisions of the regulations for effluent limitation on conviction, shall be liable to a fine not exceeding N200,000 or to imprisonment for a term not exceeding 2 year or to both such fine and imprisonment and an additional fine of N5,000 for everyday the offence subsists.

iii. National Environmental Protection (Management of Solid and Hazardous Wastes) Regulation 1991

This is a follow up of the FEPA Act. Sections 42-52 of the Regulation are devoted to groundwater protection. Section 49(4) specifically states that wells shall be constructed in such a manner as to prevent

²² Reports on United Nations Conference on the Human Environment “Stockholm Declaration” 1972 UN, Doc.A/conf.48/14

²³ S. 25(1)

contamination. The wells may be tested at intervals for possible concentration of hazardous substances that can render it unfit for use. According to Section 50(1):

Any factory or industry required establishing a detection/monitoring programme shall monitor the groundwater for indicator parameters (e.g. PH, specific conductance, total organic carbon (TOC)), total organic halogen (TOH), or (heavy metals), waste constituents, or reaction products, provide a reliable indication of the presence of dangerous constituents in groundwater.

4.0 The Environment and National Security

To protect the environment is to protect ourselves. As explained by the former American Chairman of the Joint Chiefs of Staff, Adam Mike Mullen.²⁴

The scarcity of and potential competition for resources like water, food, and space, complicated by an influx of refugees if coastal lands are lost, does not only create a humanitarian crisis but create conditions of hopelessness that could lead to failed states and make populations vulnerable to radicalization. These challenges highlight the systemic implications and multiple other effects inherent in energy security and climate change.

The integration of environmental considerations into national security policy of any nation can be seen as an example to a larger change of environmental issues from producers to consumers and society itself.²⁵

The evolution of environmental issues inescapably implies conflict with existing legal structures, such structures including national security have generally been created over the years without any clear consideration of the environmental implications. As a result, the environmental externalities associated with existing policies have been unrecognized and ignored.

Former United States Secretary of State, Warren Christopher²⁶ has this to say on the environment and national security. ...The environment has a profound impact on our national interest in two ways: first, environmental forces transcend borders and oceans to threaten directly the health, prosperity and jobs of American citizens.

According to Levy²⁷ there are three distinct forms of connections between the environment and national security, existential, physical and political.

Exponents of the existential view, Mauren Spencer, Norman Myer and Jessica Tuchman Matthew²⁸ argue that certain aspect of the environment are intimately connected to our national values. They believe that when the environmental value is threatened our security is also threatened. Proponents of

²⁴ A. M. Mullen, *Empowering Defence through Energy Security* (Lexington Books, 1947) 13.

²⁵ B. A. Allen, "Industrial Ecology: Policy Framework and Implementation" [2006](2) *Systems Engineering and Management of Sustainable Energy*; 2.

²⁶ W. Christopher, "American Diplomacy and Global Environmental Challenges of the 21st Century". Speech at Stanford University, April 9 1996.

²⁷ M. A. Levy, *Is the Environment a National Security Issue?* (MIT Press, 2005) 36.

²⁸ I. Mauren Spencer and Anor, *Nutshells: Human Rights* (Thomson Sweet and Maxwell, 2007) 21.

the physical view base their arguments on a combination of prevention, adaptation and letting nature take its course.

This section examines the proposition that global environmental degradation is a security threat. That is when environmental values are threatened, our security is threatened, ipso facts.

We begin this discussion of the view environmental protection and national security as existentially linked with the views of Norman Myers²⁹ where they argued thus: “broadening definition of national security to include resources, environmental and demographic issues... soil erosion, population growth, biodiversity loss and climate change which now warranted a new way of thinking”.

According to Mathews³⁰ there is the need to incorporate environmental damage as constituting security risk. Environmental degradation imperils a nation’s most fundamental aspect of security by undermining the national support systems of which all human activity depends. Renner³¹ presents an apocalyptic vision in which unless the “outmoded” traditional concept of national security is rejected in favour of a more comprehensive view that takes environmental harm into account, all of human society is at risk. What these and other existential advocates have in common is the view that examining individual environmental problems on their own terms is inadequate and what is required is a fundamental new thinking that makes global environmental protection to be an essential component of national security. This view is stated explicitly not only occasionally but is implicit in the whole genre. What other point could there be to itemizing a long list of environmental problems and attaching it is a plea for new thinking about security?

The project that Romm³² and others engaged in, in which they try to link environment and security is therefore fundamental. For any environmental threat to be a security threat, there must be ozone depletion, the connection is to public health and human lives.³³ In the cause of environmental refugees, the connection is to humanitarian concerns, migration and regional stability and so on. According to Lynton Keith Caldwell,³⁴ it is encouraging that we increasingly hear some people discuss environmental issues as threats to security. In international relations, security issues are generally regarded as the stuff for ‘high politics’ while economic, social and environmental issues are regarded as ‘low politics’ national leaders of course, give priority attention to high politics.³⁵

Environmental degradation constitutes a direct physical threat to Nigeria’s security interests, environmental damage results directly in the significant loss of life and welfare of citizens, or otherwise impairs our most important national values. A thinning of the ozone layer that threatens to kill and blind hundreds of thousands of Americans is easy to identify as a security risk.³⁶ The lingering problem of stratospheric ozone depletion and climate change are two environmental problems that come closest to

²⁹ N. Myers, Environment and Security [1989](45)(8) *Bulletin of Atomic Scientists*; 32.

³⁰ J. C. Mathews, “Redefining Security” 1989 (68)(2) *Spring Publishers*; 162.

³¹ M. Renner, *National Security: The Economic and Environment Dimension* (World Watch Institute, 1989) 89.

³² J. J. Romm, *Defining National Security: The Non-Military Aspect* (Council of Foreign Relations Press, 1993) 36.

³³ P. H. Gleick, “Environment and Security, Clear Connections” (1991)(47) *Bulletin of Atomic Scientists*; 21.

³⁴ L. K. Caldwell, *International Environmental Policy: Emergence and Dimensions* (Duke University Press, 1990) 52.

³⁵ S. P. Huntington, *The Common Defense: Strategic Programs in National Politics* (Columbia University Press, 1961) 63.

³⁶ O. Greene, “The Complex Chemistry in the International Ozone Agreements” [1995](32)(2) *Environment*; 16.

constituting physical threats to national security.³⁷ Without assessing the merits of any specific claims, one can ask for each risk whether the mechanism alleged to be at work is one that involves direct degradation of important national values. The others do not either affect vital interests, or do so only indirectly, by playing a role in a more complex causal mechanism in which other factors are more important.

A review of the ozone depletion problem shows that while it clearly constitutes a security risk and that efforts to cope with the problem have similarities with efforts to cope with important military threats labeling the problem as a security problem adds value to our ability as a society to respond effectively.³⁸ In fact, one reason while political responses to the ozone depletion problem may somewhat be because the problem was not framed as a security problem, but rather as a more mundane public health and chemical hazard problem.

The problem of stratospheric ozone has much in common with conventional security risks.³⁹ The values that are threatened are the lives and wellbeing of citizens, in addition to such other values as the lives and wellbeing of other citizens, ecosystem health, crop productivity and materials destruction. As early as 1971, when stratospheric ozone was believed to be threatened by a proposed Supersonic Transport Plane (SST), the potential increase in human skin cancer was cited as a reason to take steps to prevent the risk.⁴⁰

5.0 Global Climate Change in Context

This lesson has been lost on advocates for action to prevent climate change, who have devoted considerable energy to raising the issue as high as they can on the political agenda and linking it to security wherever they can. Although, climate change probably does constitute a security threat because of the severity of the political impacts.

Assessing the severity of climate change and evaluating response options is vastly more difficult than such tasks were with the ozone depletion threat. The range of effects is more wider; they involve biological and physical systems less well understood than stratospheric chemistry they involve a far greater range of industries, and the diplomatic constraints are much more pressing.⁴¹ The upper range of projected adverse effects is high enough, however, and the lower range of cost estimates low enough to make it possible to envision an ambitious control strategy analogous to the strategy designed to combat ozone depletion.

The possibility that a build up green houses gases, especially carbon dioxide, might cause the earths temperature to rise and cause traumatic climate change was first raised in 1986⁴² various natural

³⁷ L. S. Kalstein, *The Impact of Human Induced Climate Warning upon Human Mortality (A New York Case Study, Proceedings of the International Conference on Health and Environmental Effect on Ozone Modification and Climate Change, 1986)* 182.

³⁸ R. S. Melnick, *Regulation and the Courts: The Case of Clean Air Act* (Brookings Institution, 1983) 42.

³⁹ D. Vogel, *National Styles of Regulation: Environmental Policy in Great Britain and United States* (Cornell University Press, 1986) 18.

⁴⁰ W. P. Kaufmann, *A Reasonable Defense* (Brookings Institution, 1986) 182.

⁴¹ N. Dickson and W. Clark, 'Global Climate Change: A Historical Perspective of Risk Management in the United States (The Management of Social Learning in the Management of Global Environmental Rise and Project, 1993).

⁴² F. S. Rowland and M. Molina, "Stratospheric Sink for Chlorofluoromethanes. Chlorine Atom-Catalyzed Destruction of the Ozone" [1974](249)(5460) *Nature*; 810.

assessment since 1979 have estimated global warming to be arising from a doubling CO₂ emissions to be 1.5 to 4.5 degrees Fahrenheit. Current CO₂ concentration is about 25 percent above their pre-industrial level, and may reach a level twice as high within fifty years.⁴³

The consequences of such a temperature rise have been estimated for fresh water resources, sea level rise, erosion, wetlands loss, agricultural productivity, biodiversity, air quality, human health, and urban infrastructure. Taken all together, these effects would constitute security risk if the threatened such a severe upheaval to the domestic economy that citizens would suffer greater hardship than we as a society consider tolerable.⁴⁴

Human health is the only risk that, by itself might constitute a security risk. This risk has been studied for less than the impact of sea level rise. However, the little that has been done suggests the possibility of a fairly significant threats warming threatens to increase the incidence of malaria, Rocky Mountain spotted fever and other insect borne disease. A study in 1986 estimated that the doubling of CO₂ would lead to more summer heat caused deaths.⁴⁵ It is unlikely that human health threat alone, however, would be enough to justify corrective measures. Therefore, the extent to which climate change constitutes a security risk hinges on the magnitude of the welfare losses from climate change, and the speed with which they might occur.

If ozone depletion is considered the prototypical environmental security problem, then the existing style of environmental policy-making is appropriate.⁴⁶ Ozone is a fairly rapidly emerging problem for which a solution was found that was fairly straightforward. It was like the security task of pushing back North Korea or of getting Saddam Hussein out of Kuwait for action on problems like climate change, however we need a policy-making style more like defense policy than environmental policy. Climate change is a problem much more like the problem of containing the Soviet Union, it requires a grand strategy to guide actions in the face of distant, uncertain, threats and an overreaching commitment from high levels of leadership to stay the course through the ebbs and flow of popular sentiment.

6.0 Environmental Protection and the Right to Life

Environmental Protection Law is a part of Human Right Law meant to protect, preserve and enforce the RIGHT TO LIFE (the most fundamental of the Human Rights) through a healthy and sound environment.

According to Theodore Okonkwo, the right to environment, being a global matter, is recognised and policed by Humanitarian Law. The right to environment, in so far as it relates directly to the existence of man and his survival, occupies the same position and importance as the constitutional right to life.⁴⁷ This is because a poor, dirty and putrid environment can affect the health of the individual and result in subsequent death. As a matter of fact, deaths had resulted in many cases from bad, and damaged environment.

⁴³ R. Black, *Geography and Refugees Current Issues, Pattern and Process of Change* (Belhaven Press, 1993) 14.

⁴⁴ P. Huntington, "The Clash of Civilization" [1993](79)(3) *Foreign Affairs*; 22.

⁴⁵ T. F. Hommer-Dixon, "Environmental Scarcity and Violent Conflict" [1993](2)(268) *Scientific American*; 45.

⁴⁶ A. Suhike, "Pressure Points: Environmental Degradation and Conflict" [1993](3) *Project on Environmental Change and Acute Conflict*; 23.

⁴⁷ Section 33 of the Constitution of the Federal Republic of Nigeria 1999

Some other prominent cases where the right to life had been derogated as a result of environmental degradation include the Koko toxic waste dump incident in Koko village, Delta State, Nigeria in 1988. Chief Nana of Koko on whose land the toxic waste was deposited lost his life due to the dangerous effect of the toxic waste. The explosion of East Ohio Gas Company Liquefied Natural Gas tank in Cleveland Ohio USA in 1944, which killed one hundred and thirty-one persons. These cases and many other unpublicized deaths caused by diseases, which are a result of the decay in the ecosystem, as is reflected in global warming, ozone layer depletion, acid rain, show that life is dependent on the environment and any threat to it infringes on the right to life.

The deleterious effect of environmental pollution to human health and life can be seen from the statement of Archibong B. as he comments on the effect of oil pollution in the Niger Delta of Nigeria thus;

Indigenous people of these communities experience high rate of diseases, birth defects and early deaths... they face a higher incidence of health hazards than any other place in Nigeria due to dangerous conditions.

Furthermore, the adverse effect of the environmental pollution to human life can be summed up in a statement made by the oldest man in Otuogidi Town in Ogbia Local Government Area of Bayelsa State in the Niger Delta region of Nigeria, on the 7th of February, 1999.

I pity you young people and those that will be born after because the good things we enjoyed when we were your age are no more there. We used to drink fresh water from our streams, eat fresh and tasteful food from our farms and breathe fresh air... All the streams are spoilt, all the products from the farms now have bad taste and odour if they have not disappeared 'kpatakpata'. Most of our animals have disappeared, you are now regular customers to hospitals, and diseases we never heard of before are now your bedmates...⁴⁸

7.0 Conclusion

This work has analysed the environmental right and as a human security issue, it has brought to the fore that issues of environmental right should get the priority other threat to national security gets. It opened an avenue which presupposed that, the environment should be protected and safeguarded as a human right issue. It mandated as it were for a state policy, so as to highlight the importance of the objective and the need for the state to see it as a solemn obligation.

This work have broadened the definition of state security to encompass environmental protection by insisting that when environmental values, are value is threatened security is threatened environmental degradation leads to a direct threat to loss of life and welfare of citizens.

8.0 Recommendations

- 1) The traditional concept of security should be phased out for a more comprehensive view that takes environmental harm into account.

⁴⁸ O. Ogbuigwe, Law and Environment: The Niger Delta Challenge, *Port Harcourt Law Journal*; 1987.



- 2) It is recommended that Section 20 dealing with environmental objective should not be allowed to remain in Chapter II of the Constitution as it is likely to be reduced to a constitutional rhetoric.
- 3) There is an urgent need to review Nigerians laws to reflect the contemporary changes that have occurred in human rights and environmental sustenance.
- 4) The judiciary needs to be more proactive in utilizing the existing legal machinery available to ensure environmental protection and sustenance.